Sponsorship... For Better or For Worse

The Impact of Sponsorship on the Equality Rights of Immigrant Women

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LIST OF ACRONYMS

ACFO	Association canadienne-française de l'Ontario
CACSW	Canadian Advisory Council on the Status of Women
CANACT	Canadian African Newcomer Aid Centre of Toronto
CCCI	Conseil des communautés culturelles et de l'immigration
CCR	Canadian Council for Refugees
CERII	Centre of Excellence for Research in Immigration and Integration
CIC	Citizenship and Immigration Canada
CLC	Canadian Labour Congress
COFANF	Communauté des femmes africaines noires francophones
CPVAW	Canadian Panel on Violence Against Women
CRO	Community Resources Office
DJINS	Department of Justice, Immigration and Naturalization Services (United States)
EIC	Employment and Immigration Canada
FPTFLC	Federal/Provincial/Territorial Family Law Committee
GTFIVC	Groupe de travail sur les immigrantes et la violence conjugale
ILRAG	Immigration Legislative Review Advisory Group
INS	Immigration and Naturalization Services (United States)
MCC	Multiculturalism and Citizenship Canada
MTCAWA	Metro-Toronto Committee Against Wife Abuse
NAWL	National Association of Women and the Law
NCW	National Council on Welfare
NOIVMWC	National Organization of Immigrant and Visible Minority Women of Canada
OAITH	Ontario Association of Interval and Transition Houses
OHRC	Ontario Human Rights Commission
OPINS	Office of Programs, Immigration and Naturalization Services (United States)
PCLS	Parkdale Community Legal Services
SC	Statistics Canada
SPCMT	Social Planning Council of Metropolitan Toronto

PREFACE

Good public policy depends on good policy research. In recognition of this, Status of Women Canada instituted the Policy Research Fund in 1996. It supports independent policy research on issues linked to the public policy agenda and in need of gender-based analysis. Our objective is to enhance public debate on gender equality issues in order to enable individuals, organizations, policy makers and policy analysts to participate more effectively in the development of policy.

The focus of the research may be on long-term, emerging policy issues or short-term, urgent policy issues that require an analysis of their gender implications. Funding is awarded through an open, competitive call for proposals. A non-governmental, external committee plays a key role in identifying policy research priorities, selecting research proposals for funding and evaluating the final reports.

This policy research paper was proposed and developed under a call for proposals in April 1997 on *the integration of diversity into policy research, development and analysis*. While it is recognized that women as a group share some common issues and policy concerns, women living in Canada are not a homogeneous group. Aboriginal women, women with disabilities, visible minority women and women of colour, linguistic minority women, immigrant women, lesbians, young women, poor women, older women, and other groups of women experience specific barriers to equality. Through this call for proposals, researchers were asked to consider these differences in experiences and situations when identifying policy gaps, new questions, trends and emerging issues as well as alternatives to existing policies or new policy options.

Six research projects were funded by Status of Women Canada on this issue. They examine the integration of diversity as it pertains to issues of globalization, immigration, health and employment equity policies, as well as intersections between gender, culture, education and work. A complete list of the research projects funded under this call for proposals is included at the end of this report.

We thank all the researchers for their contribution to the public policy debate.

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Note: The law and social science research used in this report is up to date as May 1, 1999.

INTRODUCTION

For years now, it has been suspected that "conjugal" sponsorship exacerbates the vulnerability and dependency of immigrant women in relation to their husbands. Sponsorship is a procedure that allows people to immigrate to Canada in order to join their families without having to satisfy the usual selection criteria. For sponsors, sponsorship consists of making a commitment to the Canadian government to "assume responsibility" for the essential needs of the sponsored individual and to ensure that she (in this case) does not require social assistance for a period of 10 years. In a conjugal context, the power and responsibilities conferred on the husband/sponsor introduce an imbalance in the relationship, often placing the sponsored spouse in a subordinate position in relation to her husband.

The issue of the impact of sponsorship on the equality rights of immigrant women appeared as a priority for the Table féministe francophone de concertation provincial de l'Ontario[1] during its 1996 training, consultation and strategic discussion project on the constitutional equality rights of Franco-Ontarian women. During the meetings, which involved some 75 activists in Ottawa, Timmins, Sudbury, Chatham and Toronto, many questions were raised concerning the status of women immigrants. Sponsorship was identified as a key issue during the provincial consultation held in May 1996 in Ottawa. The Table subsequently decided to make this issue one of its top priorities; a steering committee on sponsorship was struck and the parameters for the project were developed.[2] This report is the result of action research, guided by a committee principally made up of immigrant women, in order to transform federal and provincial policies to ensure greater respect for the equality rights of immigrant women. A detailed overview of the methodology used in this project is presented in Part I of this report.

Although several women's groups have been sounding the alarm, for some time now, regarding the problems experienced by sponsored women, there are very few studies on this issue, with the exception of in-depth research carried out in Quebec at the end of the 1980s by the Conseil des communautés culturelles et de l'immigration under the direction of Juanita Westmoreland-Traoré (recently appointed as a judge of the Superior Court of Quebec). Therefore, the first thing we wanted to do was to examine the impact of sponsorship on the living conditions of Francophone immigrant women in Ontario. To this end, we conducted in-depth interviews with 16 women living in Ottawa, Toronto, Hamilton and Sudbury. Their stories, presented in Part II of this report, eloquently attest to the magnitude and complexity of the problems they face as immigrant women and how conjugal sponsorship contributes to their disadvantaged status. The testimony of the women we met revealed that sponsorship, when it takes place between spouses, is likely to create, or intensify, the dependency and vulnerability of women in relation to men, thereby reinforcing traditional roles of domination and sexual subordination within a marriage. Undoubtedly, not all sponsored women are negatively affected by the legal relationship this procedure establishes between spouses but, often, sponsorship seems to be a source of conflict, tension, blackmail and, at times, abuse.

The various laws, regulations and guidelines from the federal and provincial governments defining sponsorship, the obligations of sponsored persons and their sponsors constitute what is called the "sponsorship regime." As we will see in Part III of this report, the fact that sponsorship involves the undertaking of responsibility for women by the spouse, the fact that the application for permanent residence may be refused if the spouse withdraws his sponsorship and the fact that the access of sponsored women to social assistance is limited by provincial regulations (and remains so for the entire duration of the sponsorship, even after citizenship has been obtained) mean that the equality rights of women immigrants are being violated. Indeed, our research revealed that the sponsorship regime has a discriminatory effect on immigrant women who are sponsored by their husbands in that it exacerbates their unequal status within the marriage, diminishes their dignity and degree of independence, aggravates existing socio-economic disadvantages and violates their most basic human rights.

The question of federal and provincial reform is, therefore, vital. How do we reform current policy in order to facilitate the important objective of family reunification while ensuring the respect and promotion of immigrant women's constitutional equality rights as well as their human rights, as entrenched in the *Canadian Charter of Rights and Freedoms*? This question is addressed in Part IV of this report, where we begin by discussing the reforms made in other jurisdictions in order to find promising avenues for reform. In 1994 in Quebec, the conjugal sponsorship period was reduced to three years for immigrant women. However, a conference organized in May 1999 in Montréal by the Association tunisienne des mères, Cris de désespoir de la femme immigrée parrainée (Cries of despair from a sponsored immigrant woman), showed that the basic problems caused by sponsorship continue to exist, despite the shortened sponsorship period. In the United States, reforms were introduced in 1994 after the *Violence Against Women Act* (VAWA) was passed, but this model does not offer many avenues of interest. Last, we examined the recent proposals submitted by the federal government in its policy statement, tabled January 6, 1999, (CIC 1998b) entitled *Building on a Strong Foundation for the 21st Century. New Directions for Immigration and Refugee Policy and Legislation.*

Two policy reform "options" are considered in this report. The first would focus on improving the current sponsorship regime according to the needs of women sponsored by their husbands; the second would focus on eliminating mandatory sponsorship in cases of family reunification between spouses. If the latter approach to reform were adopted, permanent residence would be granted to an immigrant woman, who would not be subjected to the sponsorship regime, provided that she immigrates to Canada in order to live with her husband. These two reform options were submitted first to the Table féministe's steering committee on sponsorship. Next, these options were presented during a consultation and co-ordination forum on sponsorship that was organized by the steering committee on the weekend of May 1, 1999. The participants at this forum unanimously decided to recommend that permanent residence be granted to any person immigrating to Canada with the objective of joining her spouse and that sponsorship no longer be a requirement. Concerned with ensuring that equality rights would effectively be recognized for all Canadian citizens, participants recommended that the duration of sponsorship of other members of immigrant families also be reduced to three years, the required waiting period for obtaining Canadian

citizenship. Participants at this forum laid the groundwork for a community information, referral and advocacy network to defend the rights of immigrant women. Moreover, they intended to take steps at federal and provincial levels to obtain policy reform that might better respect the rights of immigrant women.

We hope this research report will be useful in ensuring that egalitarian reforms are made in immigration law. This document is our contribution to the process, but in no way is it a definitive paper on the issue. Sponsorship is only just beginning to be studied and raises many questions that could not be explored in this report, such as the individual and familial ramifications of sponsorship on other members of the family as well as the definition of "family" according to immigration law. Sponsorship also poses the question of the responsibility of the family to ensure the well-being and the socio-economic security of its members in relation to the state. In these times of privatization and the disengagement of the state, the question of sponsorship touches on issues that concern all women.

PART 1: BACKGROUND

1. RESEARCH METHODOLOGY

Any research report must show how its findings were established and discuss the merits and limitations of its methodology. This section of the report is devoted to describing the methodology used in our study which was conducted in accordance with current research practices which combine anti-racist and research-action approaches (Descarries and Corbeil 1993: 7; Landry 1993: 17). Moreover, our study was founded on knowledge from two disciplines that are, at times, divergent in their demands: legal and socio-anthropological analyses. All these factors meant we had to be extremely careful in our attempt to represent faithfully the experiences of the women we consulted and to articulate their experiences within a legal framework that cannot always recapture an experience in its entirety.[3] In many ways, this research is exploratory in nature both in its way of visualizing the combination of legal and socio-anthropological research and of conceptualizing the research process itself, a process geared toward collective change. We hope the end result will form a body of work conducive to bringing about reforms that may improve the living conditions and enhance the equality rights of the women who were the focus of our work: immigrant women sponsored by their husbands.

Several research techniques were considered. First, based on documentary research, we would establish the specific historical and legal framework of the concept of sponsorship and legal practices in this regard. To this end, we examined the current law as well as the most recent reform proposals. In addition, we conducted interviews with men and women practitioners from organizations that defend the rights of immigrant women. Second, based on the life stories recounted by sponsored women, we assessed the sociological impact of sponsorship on the women themselves in order to discern the dynamics of the relationships they maintained and continue to maintain within their families, and within society at large. Third, a legal analysis of this sociological impact was formulated according to a normative framework established by the Canadian Constitution and the equality rights recognized therein. Last, guidelines for reform of the current sponsorship regime were proposed. Thus, the research conducted included several distinct steps, each of which demanded a methodological approach that was somewhat different from the other. In this section, we analyze the various components of research that were used, focussing on the guiding logic underlying each one. We begin by providing an overview of the general framework in which our research took place, focussing on its collective nature. We then define the analytical processes involved in our approach and conclude by explaining the various approaches and choices that were favoured, particularly with regard to research of a socio-anthropological nature.

The General Framework of the Research Methodology: Participative Research-Action

Above all, research-action is a research approach geared toward social transformation. It is also:

> a process in which, together, researchers and [social] stakeholders systematically investigate given data and ask questions with a view to solving an immediate problem experienced by those stakeholders and to enriching cognitive knowledge and practical and life skills within a mutually accepted ethical framework.... [The goal of this form of research] is to link together elements that classic research tends to separate: theory and practice, research and action, the individual and the community, the emotional and the intellectual, etc. [Translation] (Mayer and Ouellet 1991: 104).

This research proposes a connective exploration between theoretical and empirical knowledge and, by bringing together researchers, participants and other persons concerned by the proposed social change, exchanges knowledge in the context of a discussion that is as egalitarian as possible between "experts" and "non-experts." In this kind of approach, the pooled knowledge of all the members of the team validates the knowledge obtained, and the members of the team share the common goal of transformation. Research-action is an approach that is often used by groups of women and constitutes "an attractive methodological tool for bringing together the demands and needs expressed by groups of women to integrate them [into] research concerns" [Translation] (Descarries and Corbeil 1993: 7).

Given that these are the principles guiding the teams involved in participative research-action, we asked how they could be applied in this project.

Four parameters were defined in this regard:

- definition of the issue according to the needs and objectives of the social transformation of a real group and inserted in a specific context, within which the research is taking place;
- research orientation negotiated and discussed with all the participants, some of whom are directly concerned with the objectives of social change;
- research regarding the equality rights between researchers and non-researchers, with researchers giving up their traditional role as "experts," and participants being unofficially designated as "professional researchers," appropriating the various steps of the approach and participating in the study as it is taking place; and
- research regarding the concrete ways in which the identified problem might be transformed.

These are the guiding principles we tried to apply during the research for this report.

As we saw in the Introduction, the main objectives of the study were formulated by immigrant women affiliated with the Table féministe de concertation provinciale de l'Ontario. Based on these women's concerns and under their direction, a proposal was prepared and submitted to the funding agencies. These preliminary guidelines were very useful for all the women who participated in the project since they allowed us to return to

our common goal and reorient ourselves whenever we were led astray by the limitations and unexpected events involved in research. In order to ensure that research orientations were followed, a steering committee made up of five people was struck. Four members of the steering committee had immigrated to Canada and had first-hand experience with the issue of sponsorship or maintained close ties with other sponsored women. Some members of the steering committee actively participated in our research by recruiting sponsored women, conducting interviews and joining in on discussions during research meetings. The majority of the members of the steering committee were immigrant women of colour from French Africa or the Caribbean who had first-hand experience with manifestations of racism in Canadian society.

Research orientations were discussed and negotiated throughout the study between researchers and members of the steering committee. However, a number of limitations had to be taken into account. Indeed, the research took place in four different cities in Ontario (Ottawa-Carleton, Sudbury, Hamilton and Toronto) and was conducted by researchers from diverse disciplines and cultural backgrounds. Consequently, we sometimes had to adjust the organization of our research so discussions could take place on several levels. The first level of discussion involved the entire team, including the steering committee and the researchers. These discussions took place as regularly as possible—at least during the stage of gathering data, analyzing material collected in the field and proposing reforms based on study findings. Intensive discussions took place concerning the broad themes to be identified in the analysis of central issues and the guidelines to be applied in recruiting women for our socio-anthropological research. Once the results of the socio-anthropological study were recorded, an entire session was devoted to the validation of the experiences of the women interviewed. Several sessions were devoted to the orientation of reform proposals. The steering committee also met without the group of researchers (but included the general project co-ordinator, who was the key researcher–legal expert) to decide on concrete guidelines for the community consultation necessary to validate the reform proposals.

The second level of discussion took place within a "research group" of researchers who also came from diverse disciplines and cultural backgrounds.[4] The group's discussions involved the selection of research tools (interview guide, recruitment and sample), sharing bibliographical work, developing a grid for the systematic analysis of interviews and researching the governmental regulations and policies with regard to immigration and sponsorship. The third level of discussion involved three researchers who were active throughout the research project, in various capacities, and who were responsible for producing the report. This led to yet another level of discussion concerning the most effective way of analyzing and presenting data, structuring the report and, based on the steering committee's comments, drafting the reform proposals.

All the discussions were animated. Not only was the team diverse in terms of the "intellectual" backgrounds of its members (and, therefore, in its vision of what this type of research should entail), but most especially in their experience with immigration and the different degrees of discrimination against women and racialized groups. Some cultural distances spawned discussions that allowed us to deepen our interpretation of the living conditions of the women interviewed. The authors believe that, on the whole, the

discussions and negotiations concerning the different components of the research were fruitful. Nonetheless, difficulties often cited by researchers who have attempted this kind of approach did manifest themselves (Cornwall and Jewkes 1995). The interaction between members of the research team and the members of the steering committee were such that both came to appreciate the magnitude of the challenges of this type of study, the goal being to include participation of all concerned in every step of the research process. Several times, our communications and information distribution mechanisms were reviewed and readjusted, and the tasks of each person involved had to be defined more accurately.

Furthermore, we must admit that, to a certain extent, it was not possible for us to ensure that all the women involved in the research participated in all the decision making. The reasons were often very simple, although their simplicity does not make them any easier to accept. First, time constraints soon became obvious. It was virtually impossible to bring together this number of women, particularly the members of the steering committee, when they were already very busy with their families, professional and community commitments. None of the researchers from the "researchers' group" was working on the project full time, which sometimes made scheduling difficult. Moreover, the fact that our research participants lived far from one another presented other obstacles: it is difficult to feel consistently supported when a problem comes up and you are living several hundred kilometres from one another, in Ottawa, Hamilton, Toronto and Sudbury.

Our first challenge was the need to instill a sense of mutual confidence in all members of the team: emotional confidence, of course, but also intellectual confidence. Meeting this challenge demanded extremely long discussions. The systematic nature of our research demanded an extremely rigorous organization, but our organization could sometimes be challenged by the very premise of what it means to carry out this kind of research.[5] Last and most important, the commitment of the team with regard to issues as serious as fighting the oppression of women and racism demanded reflection, questioning and negotiation within such a diverse team. Although it is difficult to evaluate the extent of this challenge, it should certainly be considered. The team faced all these demands in the course of the research, but reality is always more chaotic than we imagine it will be, especially when very real schedules also come into play.

The first discussions we held dealt with the interview guide. The guide was the product of a "compromise" developed one step at a time, which determined, to some extent, the content of the results obtained. Indeed, the very preparation of an interview guide was the subject of long discussions. From an anthropological perspective, gathering life stories presupposes that respondents are given as much freedom of expression as possible and that the number of questions and interventions from the interviewer are kept to a minimum. However, this approach was contrary to many other decisions made with regard to research content: the numerous interviewers (chosen for their knowledge relating to the issues and the contexts involved[6]), the necessity of compiling a certain quantity of factual data (pertinent to a strictly legal reading) and the reluctance of some respondents to speak about themselves (for profoundly cultural reasons) led to the development of a very detailed interview guide that each interviewer had to assimilate.

The second type of discussion dealt with the national origins of the respondents: it was concluded that they should be as diverse as possible in order to avoid attributing violence or subordination of women to any specific identifiable group.

All research-action projects take place within a complex political and social context, and this research project was no exception. The team, therefore, decided to come together after the project to reassess this experience so it would not end when the research report was submitted. In this regard, the research-action framework allowed for an enriching process to continue within the team, extending beyond the frontiers of the immediate research.

A Feminist and Anti-Racist Analytical Framework

From the beginning, it seemed obvious to the team that our study fell within the scope of a feminist and anti-racist, socio-legal, analytical framework. By this we mean that the goals of the research were to propose an analysis regarding the sponsorship of women by their husbands, taking into account the unequal social relationships between the sexes and "races." The notion of "race" is expressed here not as an existing social fact, but as a social construct rooted in Canadian history that has allowed a dominant social group to "racialize" and dominate others according to the supposed inferiority of those dominated.[7] With these facts in mind, we gathered historical documentation and analyzed it to understand the context in which the sponsorship regime took shape. It is also with this analysis in mind that we opted for a qualitative methodology, based on the life stories gathered from sponsored immigrant women. The multidisciplinary challenge of this research became more manageable thanks to a feminist and anti-racist analysis framework which satisfied a number of methodological concerns regarding the place of this subject in social science research.

A Feminist and Anti-Racist Analysis of the Law

The purpose of a feminist analysis of the law is to expose the sexist biases of law that are so profoundly rooted in legal practices and institutions that they have become invisible (Mossman 1993). Since these biases are generally hidden beneath norms that claim to be objective and universal, they are sometimes difficult to identify. Mossman (1993: 32) writes, "Thus feminist analyses attempt to reveal the underlying rationales for existing choices in the legal system, undermining claims to neutrality and challenging the inevitability of the status quo." Carol Smart (cited in Mossman 1993: 37) believes that feminist research should attempt to answer the following question: "how does gender work in law and how does law work to produce gender?" Therefore, we must not only realize that law is the reflection of patriarchal thinking, but that it is also an active agent in the creation of unequal relationships between men and women.

Given that the law no longer formally acknowledges its commitment to the cause of men, as it used to do, our analysis could not be limited to an examination of positive law. Indeed, since the beginning of the 1980s, Canadian law has purged all specific references to the rights of one gender or another. (Witness the "neutralization" of the *Criminal Code*.) (Los 1994: 20). From that point on, the inequality of women could no longer be identified, even in a preliminary fashion, in the different treatment reserved for both genders under the law.

Thus, the law is applied in a "neutral" fashion, in apparent equality with regard to each person. It is not by looking for the formal inequality of women or the difference in their formal treatment in the eyes of the law that we can decode the biases inherent in legal norms, but rather by examining their concrete effects on the lives of women. Therefore, adopting a feminist and anti-racist analysis of the law consists in asking ourselves if the norms at issue bring about a disadvantage for women, particularly for immigrant women of colour and if, in fact, these norms contribute to their inequality (Lahey 1987: 71). Hence, the goal is to embrace "an approach to equality which takes account of substantive outcomes rather than merely formal equality" (Mossman 1993: 40). Moreover, this is the direction the Supreme Court of Canada has taken since the *Andrews* decision (see Part III of this report).

Therefore, before we can measure the discriminatory impact of legal norms on women, we must examine their living conditions to determine the extent to which neutral rules, which are supposedly universal, specifically affect them. Hence, the legal components of our study must be based on context and must make reference to the specific experiences of women (Schneider 1992; Goldfarb 1991). In this regard, the life stories of women are an important source of information. Kathryn Abrams (1991) writes: "The ostensible 'neutrality' of the law disguises the extent to which it is premised on the perspectives of the powerful; the narratives of those who occupy a comparatively powerless position are not only evidence of what has been excluded, but testimony to the law's relentless perspectivity."

The challenge we faced was, therefore, to carry out qualitative research, based on the life stories of women sponsored by their husbands, because it seemed crucial to grasp from the inside out the connections between the legislative provisions regarding sponsorship and the oppression that immigrant women experience in Canada in all the spatial-temporal complexity of their lives. It is the researchers' opinion that the testimonies of women constitute a critical counterpoint to the so-called neutrality of the law. In this regard, this report is biased epistemologically, given that, according to Abrams, life stories are meaningful not only in terms of the knowledge they convey, but also because they are an attempt to vindicate this form of first-hand knowledge (Abrams 1991: 976). Consequently, relying on life stories is also one way to give a voice to people who were traditionally excluded from legal logic (Abrams 1991: 975).[8]

Qualitative Research Based on Life Stories

Choosing to base our research on life stories and, therefore, to adopt a resolutely qualitative and socio-anthropological research approach was not only in line with the critical objectives in our feminist analysis of the law but also with the development of feminist methodological approaches and social science critical theory (Oakley 1981; Bourdieu 1994). Rather than basing our research on an instrument that would define the structure of the information to be gathered in advance and, thereby, unduly or exclusively influence the questions used by the researchers, we preferred to use less directed instruments that focussed more on what the sponsored women had to say about their lives.

The advantage of using life stories is that analysts can better understand the complexity of life dynamics, identify the various interacting factors and grasp the various effects of social structures—the legal norms in this case—on women in different living conditions (Seuffert

1995). In fact, contrary to traditional social research, which consists of an accounting of cases and a subsequent listing of problems (or establishing correlations between problems in a *statistical format*), *our approach with life stories*, as with most qualitative methods, forced us "to embrace a more holistic perception of the problems and challenges and to proceed with a socio-anthropological reframing in order to take into account the socio-cultural context of each situation–problem and to understand the specificity and the complexity of the processes at work" [translation] (Groulx 1997). In the field research for this project, the authors systematically ruled out any illusion of being statistically representative since they sought, above all, to set the processes in motion that a macro-social approach could not activate on its own.[9]

A qualitative research method also allows us to better understand the meaning that women give their actions in the environment or environments in which they live (Deslauriers and Kérisit 1997). This interpretation of actions by the women themselves has an impact on the actions they take and highlights the mechanisms at work in their decision making. A research tool that allowed for these women's personal life stories to be told not only brought into focus what has been done, but also the feelings and dilemmas that confronted us. This approach seemed more meaningful, since the women interviewed would not be perceived as passive bystanders, but as people whose capacity to act and autonomous strategies are as important as the difficulties they faced with regard to oppressive phenomena.

Among the various qualitative research methods, life stories are the best way to give subjects a voice (Bertaux 1980), establish links between the individual particularities of each life experience and the larger social paradigms that frame them. This method of data gathering not only examines the life of the study subjects but also "tells their life story in society and forces us to rediscover the ultimate study subject of sociology, life as it is lived" [translation] (Houle 1997). Working with life stories suited the objectives of our project very well in that we were trying to understand, from the inside out, the impact of a structural and legal limitation—sponsorship—on women sponsored by their husband without discounting the wealth of qualities in each woman. Moreover, the life stories gathered allowed researchers to detach themselves from a determinist perspective in which women would have been perceived as objects at the mercy of events.

However, the life stories that were gathered are not integral. In order to allow for more detailed analyses of sponsorship, the researchers limited themselves to thematic stories that included the pre-migratory period, the period of arrival in Canada and the period of integration into Canadian life (up to the present day). They did not attempt to gather very much information on the life of women before sponsorship except to cast light on how sponsorship may have disrupted their former life. Moreover, researchers did not attempt to reconstruct all the integration strategies adopted by the women or the impact of the immigration on their identity. These aspects of the lives of immigrant women, as in their integration into the job market, have been the subject of numerous studies. Nonetheless, this information constitutes the backdrop against which the specific issues of sponsorship should be explored. It is thanks to this documentary research that information that was likely to shed fresh light on the qualitative data was gathered.

Research Tools

Documentary Research in the Social Sciences and in Law

Documentary research on the socio-anthropological and historical context of the sponsorship of women by their husbands was systematically conducted from computer data bases (Sociofile, PsychLit, Repère, SocialWork Abstract, Current Content and Public Affairs Information Services).[10] An international data base on women[11] (Women's Resources International) was subsequently included and further validated with the data gathered from other data bases. Canadian scientific reviews on ethnic relations and public policy likely to contain information on immigration were systematically perused. Government documents were also searched, particularly those that addressed the living conditions of immigrant women in Quebec and Canada. As it turned out, studies dating from the late 1980s on the sponsorship of women in Quebec became important parts of our project and, despite some similarities with this project, the authors did not feel they were duplicating the same work (Racine 1988; CCCI 1988a,b). For one thing, the context in which the sponsorship of women by their husbands takes place has changed. Second, our target population was women sponsored (exclusively) by their husbands and living in Ontario. These circumstances forced the authors to consider parameters other than those presented in studies dating from 1988. An analysis of Quebec reforms around sponsorship is included in this report. (See Part IV.) These documents were read and analyzed throughout our research by all the members of the research group. Unfortunately, it was not possible to integrate all elements into our analysis since choices had to be made regarding the findings presented. The bibliography can, however, serve as a reference for future research on sponsorship.

Research on the legal aspects of the period preceding the qualification of sponsored women was founded on the following sources: legislation on immigration, the regulation of governmental policy, jurisprudence and pertinent legal doctrine. We examined provisions of the *Immigration Act* of 1976 and its associated *Regulations* (1978), manuals on immigration and the *Citizenship Act*, the *Canadian Charter of Rights and Freedoms*, various international instruments for the protection of human rights and recent regulations regarding social assistance in Ontario. This review of "positive" law was rounded out through interviews with the various people working in the field: workers in service or advocacy organizations for immigrant women and immigration law professionals. These people have been cited in our analyses.

Interviews with Sponsored Women

Semi-directed interviews were carried out with women sponsored by their husbands in order to collect their life stories. Sixteen interviews were conducted in February, March and April 1998 and lasted two hours on average. Once the interviews were transcribed, word-for-word, by a specialist, a descriptive and exploratory analysis took place. As a matter of professional ethics, before each interview was conducted, interviewers were charged with the task of explaining and certifying the anonymity and confidentiality of the comments made by the women interviewed by using a consent form approved by the York University Centre for Practical Ethics (Appendix I). Analysis of the interviews was carried out from anonymous texts and, to facilitate the reading of the findings presented in the second part, we chose to use pseudonyms for each respondent.

Interviews were divided into large blocks so a chronological account of events could be gathered (situation before arriving in Canada, steps taken and first moments settling in Canada, "integration" in Canada). This groundwork allowed us to situate the exact sequence of events in the sponsorship experiences of these women according to their status during the sponsorship process. The interview guide (see Appendix II) was divided into chronological sections, each containing questions centred around five main themes:

- the processes that led to sponsorship and immigration procedures (whatever they may have been) undertaken by these women;
- the socio-economic conditions of women throughout this experience (particularly with regard to financial autonomy, employment and training);
- relations within families and couples since making the decision to immigrate (particularly the husband's support and the dynamics at work within the couple and within the community of origin);
- access to social, legal, health or training services; and
- strategies for gaining autonomy and the means that these women used to succeed in their integration or simply to survive.

The interview guide was developed by three researchers who attempted to combine the necessary requirements for accuracy in the actual gathering of information (required for the legal analysis of the life situations) with the appropriate motivation to gather stories and testimonials as "naturally" as possible, affording women extensive latitude in their interpretation of their experiences and in the description of their context. The guide was then tested by three members of the research team in three different cities. The results of these trials were the subject of a discussion in which all the researchers and all the members of the steering committee were included. The guide was subsequently revised. Some questions were clarified, while others were reviewed in order to evaluate the relevance of the proposed wording.

As we mentioned above, the interview guide was shaped by several requirements. Its apparent complexity results from requirements that are, themselves, sometimes contradictory due to the nature of participatory and multidisciplinary research. Because of the participatory nature of the research, we found it necessary to construct an interview guide that was precise enough so the interviewers (including trained women interviewers, particularly researcher "interviewers") and members of the team, who were not used to this type of interaction, could gather relatively similar data. Training less experienced interviewers was done through group discussions. The researcher in charge of the socio-anthropological aspect of our study met these interviewers individually before each interview in order to provide instructions on the general rules of conduct in a semi-directed conversation. After an initial recorded interview, this researcher then discussed how the interview went, emphasizing the strengths and weaknesses noted and reconstructing some aspects of the approach.

Generally, the interview guide was flexible enough to allow us to gather both factual and interpretive data. It also proved flexible enough for interviewers to address all the themes

they were required to explore while adapting their style of questions to the pace of the individual women they faced. However, some questions posed difficulties and the answers given were sometimes evasive, particularly concerning the nature of the violence some women experienced from their partners.

The women who were interviewed gave long descriptions of the integration process they were involved in, the effect of sponsorship on their married life, family life and autonomy, and their search for assistance. They also frequently expressed their own opinions on their status as women sponsored by their husbands, often with great emotion. The decision to entrust the interview process to members of the team who were familiar with these women's living conditions certainly proved to be beneficial to the extent that it encouraged the women we interviewed to open up more than they normally would have. Nonetheless, although research interviews can provide women with extensive scope for self-expression, they cannot gather and record everything. Reservations about one thing or another can hide certain aspects of an experience, particularly with regard to deeply intimate personal experiences. Thus, the report presented herein is exploratory in nature.

Recruitment and the Sample Group

Recruitment

The limitations which came to light during the recruitment of sample subjects showed that even though our research instrument provided extremely meaningful and important answers for the analysis of the impact of sponsorship, the generalization of the findings obtained had to be approached with caution. For example, although we had foreseen that we would gather stories from the approximately 30 sponsored women, only 16 were gathered, for many reasons. For one thing, we had counted on recruiting women through their advocacy organizations. However, it very quickly became obvious that these organizations could not be the main venue for recruitment. Indeed, very few women who are already in a vulnerable situation will talk to "strangers" or women they do not know about their "private" lives (interviewers did not always belong to these groups). Therefore, we soon turned to the networks of women participating in the project (steering committee and research team). In recruiting by word-of-mouth, it was easier to forge the trust relationships necessary for discussing difficulties or recounting present or past experiences. But this approach had its limitations. Women who fit the profile of sponsored women, who "had a problem," were difficult to recognize within the context of an everyday network. Present difficulties (particularly those concerning violence issues) often go unspoken, and past difficulties are not necessarily mentioned in everyday conversation.

Moreover, it is not easy to recruit within the networks we are familiar with, given the narrowness of Francophone networks and their fragmentation. Either everybody knows everybody, which complicates the task of ensuring anonymity and confidentiality, or else people do not know each other at all, particularly in cities where French-speaking immigrants often take up residence (as in Hamilton). Moreover, speaking about their personal lives was very difficult for several of the women we contacted. Some, who had agreed to be interviewed, later changed their mind. These women did not feel at ease speaking about their private life, especially when the person conducting the interview was

not part of their immediate circle of acquaintances. Thus, many women who were very open to the study perceived the interview as an intrusion into their private life and, therefore, as a threat. Some married women, who were asked to participate, had to deal with the presence of their husbands, while others chose not to participate after discussing the project with their husband. Finally, the education gap (often accompanied by an economic gap) between the interviewer and interviewee may have influenced recruitment. According to the interviewers, some women with little education may have felt they were being judged based on what the interviewer represented to them: modernity and society's rejection of their so-called "archaic traditions."

Our sample is, therefore, not representative of all Ontario women sponsored by their husbands in the statistical sense of the term. In a way, the women in our sample who agreed to speak to interviewers are those who, for one reason or another, had already resolved some of their vulnerabilities and put their trust in the person they were meeting. The sample is not representative in that we decided to interview only French-speaking women. Inevitably, the result of this decision was that the vast majority of women interviewed had been highly educated in their country of origin, with the exception of the Francophone countries of Europe. However, the authors would contend that the life stories gathered are all the more poignant in their demonstration of how vulnerability can be exacerbated by a husband's sponsorship. If these women, the majority of whom were highly educated and spoke at least one of Canada's official languages, could encounter such difficulties, what can we say about all the women who were not interviewed and who are even more isolated than those whose life stories were revealed? What is happening to those women who have no knowledge of English or French?[12] The above-mentioned limitations should be taken into account in reading the socio-anthropological data analyzed in Part II.

Sample Group

Who are the women who agreed to meet with the interviewers?

The majority of the women interviewed came from West Africa (nine); three were from Haiti, two from Western Europe (France and Portugal), one from Central America and one from a country in the Middle East. The situations experienced by sponsored women are extremely complex and varied depending on the stage at which women find themselves. We diversified our exploration of the sponsorship process as much as possible in order to analyze the most intense moments of vulnerability. Eight women were sponsored while they were outside Canada;[13] in these cases, the women had arrived in the country with their permanent resident status. Eight others made their request within Canada, for "humanitarian" reasons. They came to Canada as students or on a visitor's visa and met or came to join the husband who later sponsored them. They waited for their permanent resident status for a few months or years. For the majority of the respondents, the sponsorship process ended there; for others it had only just begun, and they continued to await their permanent resident status. This diversity of situations exposed the most critical periods in the sponsorship process.

Regional diversity
The researchers were able to recruit three women in the Hamilton region,[14] two in Toronto, two in Sudbury and nine in Ottawa.

Age
No age limit was set in the recruitment of women. However, given that we were addressing sponsorship by husbands (and not by parents or children), the women we consulted were in their 20s (four), 30s (nine) and 40s (three), reflecting the age pyramid of those newly arrived in Canada.

Number of children
Since the issue of children can have an impact on the experience of sponsored women, we attempted to recruit women who have at least one child. Of the 16 respondents, only one woman was in Canada without her child, who was in her country of origin, where her husband had returned. This situation was the most difficult of all those presented. Seven women had one child, four had two and the other four women had three children.[15]

Profession
The current situations of the interviewed women were diverse. Five women were homemakers (one because she was awaiting her status), three others were at school and nine had paying jobs, all in the service industry (office work for private companies, social service or health networks, civil service, independent and custodial work). We had long debates regarding the necessity of asking women about their annual personal or family income, but decided that this kind of question could appear indiscreet.

Analysis

Analyzing the Interviews
The 16 interviews conducted were transcribed in detail and underwent a content analysis. As much as possible, this analysis was carried out collectively. In the first layer of rough analysis, we identified common themes, discrepancies and contradictions within the interviews carried out by the researcher responsible for the socio-anthropological aspect of the project. This preliminary "horizontal" reading allowed us to draft a list of codes, which was subsequently consolidated through a "vertical" reading of two interviews considered particularly rich in information (Patton 1990). This first level codification (in which some codes, followed by their definitions, were proposed) was the basis on which discussions were held, resulting in the construction of a general analytical framework. Collective analysis took place during a two-day meeting of the research committee. In order to prepare for this meeting, each researcher was asked to analyze two interviews according to the established codification and to mark the codes they considered appropriate in the margin of the transcribed interviews, beside each cluster of meaning that they drew from the text or to create new ones where necessary.[16] Four interviews were read at that time in order to refine or add codes and to eliminate redundant categories. This procedure resulted in the establishment of an operational codification system that two research assistants worked on. One researcher was responsible for compiling the data into the categories for analysis set out by the team.

The analytical framework, which used the main themes involved in the development of the interview guide (immigration procedures, family and social relations, relations within a couple, socio-economic situation and integration, access to services) emphasized not only the content of women's experiences, but also their own evaluation and perception of these experiences. This analytical framework afforded us quick access to a large quantity of data, although not all the data could be used due to the great abundance of information typically contained in life stories. However, the researchers are of the opinion that this procedure allowed them to understand how these women had experienced sponsorship.

Two researchers, who were responsible for writing the report, subsequently undertook a third step in data analysis, based on the data compiled and through a cross-referencing of entire interviews. In this way, a third reading was carried out which allowed us to validate our findings regarding the data. The work of interpreting data was then carried out in which testimonials were placed in perspective by using the structure of the texts to provide an interpretive coherence.

Once the descriptive analysis of the data was completed, it was submitted for reading to the steering committee members, who (as indicated earlier) were well acquainted with issues surrounding sponsorship of women by their husbands. This delegation of the descriptive analysis was carried out in a most informal way and consisted mainly in validating the general "tone" of the analysis. Indeed, the goal of this validation was to propose testimonies from the women interviewed in order to echo analyses of a more socio-judicial nature in Part III. It was, therefore, necessary that these testimonials accurately represent the voices of the women we met. The steering committee quickly adopted the analysis of the socio-anthropological data.

Legal Analysis and the Development of Reform Options

The problems identified by the sponsored women we interviewed were analyzed according to a normative framework drawn from the egalitarian provisions of the *Canadian Charter of Rights and Freedoms* and, to a lesser degree, from international human rights law. This normative framework allowed us to assess the impact of immigration policy on women sponsored by their husbands. More specifically, we were asking the following questions. Do these policies tend to increase or exacerbate these women's social, economic and political or legal disadvantages? Do they diminish their right to dignity and security of the person? Do these policies constitute an attack on their equality rights?

This normative framework also sets up the obligations to which various levels of government are held since it literally defines the parameters of the legality of state action. Thus, federal and provincial governments were deemed responsible for ensuring that their policies, laws and practices do not violate the constitutional rights of immigrant women and do not directly or indirectly discriminate against them.

To evaluate the impact of the sponsorship regime on immigrant women sponsored by their husbands, we attempted to situate the general context in which sponsorship is applied. Social science literature and the law on racism and the racialization of immigrant men and women, sexism and the patriarchal appropriation of women and socio-economic conditions specific

to immigrant women were reviewed. This exercise allowed us to zero in on the concrete ramifications of sponsorship on the lives of immigrant women.

We then identified some aspects of the sponsorship regime which seemed to be at the source of the problems identified by the women: the "undertaking of responsibility for women" inherent to sponsorship commitments, restrictions on the right to social assistance and the procedures for requesting permanent residence while in Canada. First, these points were analyzed with regard to their impact on the lives of women and their ramifications on their human rights. Then, the points were examined in light of criteria defined by the Supreme Court of Canada to determine whether a law or government policy breaches equality rights as stated in section 15 of the Charter. This analysis revealed that the sponsorship regime is discriminatory with regard to women sponsored by their husbands and must, therefore, be thoroughly reformed.

Since the purpose of this research-action project was to transform the status of women in order to ensure the respect and promotion of their equality and human rights, we also attempted to formulate proposals in shaping legislative reform. To this end, reforms made in other jurisdictions, notably in Quebec and the United States, were reviewed, as well as proposals announced in the course of our project by the federal government. The first document was submitted in January 1998 by the Legislative Review Advisory Group. While this study was drawing to a close, the Minister of Citizenship and Immigration tabled a second document, on January 6, 1999, proposing new orientations for policy and legislation with regard to immigrants and refugees.

These proposals were analyzed and then formulated into two reform options with regard to sponsorship. In developing these options, we took into account the importance of ensuring the well-being, security and autonomy of immigrant women (Justice Canada 1998) as well as the respect and promotion of their constitutional equality rights.

The Community Forum

The two reform options were first submitted to the members of the steering committee on sponsorship of the Table féministe, where the advantages and disadvantages of the options were discussed in depth, as well as the possible consequences of each of the scenarios.

Conscious of the collective challenges involved in any kind of reform to immigration law, the members of the steering committee decided to submit both reform options in a forum for community discussion, consultation and joint action. This forum took place April 30-May 2, 1999. Forty Francophone women from Toronto, Hamilton, Sudbury and Ottawa participated. These women were either sponsored or working in women's, community or other groups. Almost all were immigrant women and were well acquainted with the problems experienced by this community.

The steering committee established the following objectives for this meeting:

- create a space where women could safely share their personal experiences and their perceptions of the problems experienced by sponsored women;

- inform participants of the historical developments surrounding immigration policy, the current legal framework for sponsorship, and results of socio-anthropological and constitutional equality rights research;
- consult participants regarding the reform options put forward by the team in order to determine if a consensus could be reached regarding the demands that should ultimately be submitted;
- consult participants regarding the best ways of reaching immigrant women in order to pass on information regarding sponsorship and their rights as sponsored women; and
- allow for province-wide co-ordination between activists and fieldworkers in order to obtain reform of laws and policies regarding sponsorship and to succeed in better defending the rights of immigrant women.

As mentioned in Part IV of this report, participants succeeded in reaching a consensus regarding guidelines to propose for reform and they laid down the foundations for the organization of a network of experts and activists across Ontario.

This community forum allowed immigrant women to use the findings of our research and to determine collectively the orientation of the resulting recommendations. Thus, the women directly affected by the recommendations submitted in this report were able to determine their ultimate orientation.

2. BRIEF HISTORY OF IMMIGRATION AND SPONSORSHIP POLICIES

This section outlines the history of women's immigration to Canada as it relates to sponsorship, family reunification and the discrimination inherent in the various immigration laws instituted over the course of Canadian history.[17]

From Confederation to World War II

The Beginnings of a Restrictive Immigration Policy

Up until World War II, Canadian immigration policy was underpinned by principles that consistently shaped the various laws and regulations adopted in this period: land settlement, the contribution of a male work force in settling this land, demographic growth to sustain a market economy and the process of nation building based on exclusion and discrimination rooted in the racialization of certain groups.

Throughout the early 19th century, a number of measures were taken to restrict the right of entry to Canada of newcomers likely to become public charges due to sickness, age or destitution. This high-risk population included orphans, widows and women without husbands who were accompanied by their children (CCCI 1988b). The undertaking of responsibility for women by the family was implicit and part and parcel of patriarchal traditions and structures that gave men a virtual monopoly on power. During the next 150 years, immigration policy continued to draw this same distinction between "dependent" and "independent" immigrants (generally, a function of age and gender), as well as between "desirable" and "undesirable" immigrants (based on national, ethnic or racial origins, social class and health).

Canada's first *Immigration Act* was adopted in 1869, and the restrictive provisions that preceded Confederation were further entrenched. The first immigration laws did not address the question of women's immigration; the *Immigration Act* of 1869 was preoccupied with economic and colonial concerns based on the importation of a British and, occasionally, European male labour force. Concern that immigrants would become a burden to the state was already apparent, and it was made clear that families would have to assume full responsibility for their dependants (CCCI 1988b).

Between 1880 and 1914, the Canadian government opened the door to immigration in order to promote the colonization of Western Canada, and encouraged the massive settlement of British and American immigrants and, to a lesser extent, other Europeans. At the end of the 19th century, the state imposed an immigration tax on newcomers[18] of Chinese origin.

Canada's official preference for European and American immigrants effectively shut the door to immigrants of Asian origin and severely curtailed entry of African-Americans. The *Immigration Act* of 1910, amended in 1919, prohibited the settlement of immigrants whose race was considered unsuitable to the Canadian climate.[19] These laws were the first to allude to the undertaking by the families of newcomers who were "dumb, blind or otherwise physically defective" (*An Act Respecting Immigration*, 1910, ch. 38, s. 3).

Women were also subject to sexist legislative provisions at the end of the 19th century. Considered incapable, they were not recognized as "persons" under Canadian law. Consequently, they were excluded, among other things, from the same land titles enjoyed by men (Kelley and Trebilcock 1998: 69).[20] Historically, women were admitted as wives or dependants. The family unit was recognized, while the individuals dependent on the "head of the family" were subject to the conditions imposed by this person who acted as the guarantor to ensure that these family members did not become a "public charge."[21] These initial provisions have informed, to some extent, the notion of "sponsor" as it exists under the current sponsorship regime.

Gender inequality, apparent by the very silence surrounding the issue of women's immigration—with the exception of prostitutes who were among the "undesirable classes"—is akin to racialized social relationships. Some immigrant women of European origin benefited from the provisions governing family reunification, while Chinese or African-American women, as well as women from any other group considered "inferior" were *de facto* refused entry at the turn of the century (Tarnopolsky 1982; Hill and Schiff 1985; Scane and Holt 1988). A special agreement was signed in 1919 to enable "legitimate" wives of Indian origin to immigrate to Canada, but few women actually benefited from this measure since they were unable to provide the necessary documentation to prove that their marriage had been registered (Das Gupta 1994). Furthermore, the federal government also denied immigration to the wives of black railway workers until 1943 (Calliste 1988).

It was only at the end of the 19th century and the beginning of the 20th that women were encouraged to immigrate due to a pressing need for a specific type of labour force—namely English female domestic workers. This policy did not, however, extend to women of colour who would have to wait until the 1950s and '60s to be granted entry to Canada, under extremely restrictive conditions (Tie 1995).

1920-1940: Closing the Borders

The two decades preceding World War II saw discriminatory measures of the previous period further entrenched. In 1923, the *Chinese Immigration Act* (ch. 38) prohibited the immigration of Chinese citizens to Canada, with very few exceptions. The *Immigration Act* of 1919 was also amended to prohibit any person of Asian origin from immigrating, with the exception of agriculturists, domestic servants, male servants and farm labourers (Hawkins 1991: 18).

In 1931, these exceptions were revoked and only white subjects from Commonwealth countries, France and the United States who were financially independent and had secured employment were granted entry, as well as self-sufficient cultivators not of Asian origin. The years between 1930 and 1940 represent the least glorious and most racist period in Canada's immigration history since anyone who was not from Northern or Northwestern Europe[22] was barred entry. The exception to this rule were Jews attempting to flee Nazi Germany, who were also turned away. It is, therefore, not surprising that David Matas (1996) used the word "racist" to describe Canadian immigration policy.

This racist context set the stage for the immigration of women to Canada at the time. In 1918, Canadian women (non-Aboriginal) won the right to vote in federal elections. During the inter-war period, women were recognized as "persons" and were given the right to vote in provincial elections. Immigrant women, however, generally only had access to Canada as housewives, spouses or servants. Canadian policy confined women to their traditional roles in the domestic sphere and reserved employment for them as domestic workers.[23] Some women did, however, enter the job market outside domestic boundaries. For instance, the *Railway Agreement* enabled families from "non-preferred" European countries to work on land owned by railway companies, provided they engaged in agriculture and that they not become public charges within one year of their admission to Canada (Hawkins 1991: 27). It was in this context that women joined the working class (see for example, Lindström-Best 1988; Swyripa 1993; Brand 1991; Nipp 1986). Nevertheless, their general status as "dependents" served to limit their scope of action, except for specific entry policies applicable to domestic workers, and it was only as wives, daughters or mothers that women were guaranteed access to Canada. Current family reunification policy is rooted in this tradition.

1945-1960: Renewing Immigration Policy

In 1947, the Canadian government proposed broadening immigration policies as it set its sights on two main objectives: to populate Canada and, is so doing, expand its domestic market and develop the country's resources. But Canada remained opposed to massive immigration from the Orient—a tendency that continued to shape immigration policy until 1962. Canada reiterated its former selective policies and reasserted its right to accept or refuse particular classes of immigrants.[24] Other political and international forces at the time, however, contributed to making Canada a country of immigration. In fact, the years following World War II saw the establishment of international bodies and the introduction of human rights legislation as a result of the Holocaust and pressure to welcome "displaced persons" from Europe. This pressure led to the abolition of the *Chinese Immigration Act* in 1947. The *Immigration Act* of 1952,[25] however, maintained earlier exclusions based on nationality, ethnicity, climate compatibility, lifestyle and values.

Contrary to the 1920s, immigration focussed primarily on the construction and manufacturing industries as opposed to agriculture and mining. A wave of immigration from southern Europe swept across postwar Canada to fill the need for manual labour. The immigration of a highly skilled work force was also encouraged in the areas of health, education and technology, by and large from Great Britain and the United States. In conjunction with the development of welfare state institutions, ethnic groups formed a number of organizations to make their voices heard.

It was also during the postwar period that the notion of sponsorship as it exists today emerged. A statutory order in 1949 set out the conditions of entry for the family members of a principal applicant, provided the guarantor agreed to "care for" them.[26] Between 1946 and 1966, 900,000 immigrants, out of 2,500,000 newcomers to Canada, were sponsored in this way. At the time, sponsorship was open to members of the relatively extended family. The provision for sponsorship of spouses, however, was based on traditional gender relations between husband and wife. The order stipulated that a husband must be able to support his

wife. Furthermore, even after the *Chinese Immigration Act* was abolished, restrictions were maintained until the early 1960s to limit the reunification of Chinese families.

A distinction was emerging that would be maintained and vigorously debated in the years to come and, to a degree, continues to inform the debate on sponsorship and family reunification today: should family reunification involve the relatively extended family (brothers, sisters, close relatives), or should it be limited to the immediate family (spouses, direct ascendants and descendants)?[27] Sponsorship of close family members (i.e., the relatively extended family) was the object of a lively debate at the end of the 1950s and the early 1960s.

The state considered family reunification problematic for several reasons. To begin with, by adopting extremely broad criteria governing family reunification (and, thus, sponsorship), Canada feared an "invasion" by large numbers of unskilled workers. Furthermore, by opening its doors to the extended family, some immigrants, coming from "non-preferred" countries, could sponsor family members that the prevailing Canadian definition of family did not recognize as close relatives. But by granting entry to some and refusing it to others (specifically immigrants from Asian and African countries), Canada was in a precarious position with regard to international human rights and, in particular, the diversity of the Commonwealth.[28]

Between the *Immigration Act* of 1952 and the *Immigration Regulations* of 1967, which established a point system to promote the immigration of skilled workers, the *Regulations* of 1962 confirmed, for the first time in the history of Canadian immigration, that persons who, by virtue of their education, training and skills, were likely to be successful in Canada, would be granted entry. However, this regulation enforced the same restrictions as those imposed in 1956 with regard to family members eligible for sponsorship by persons of Asian or African origin.

It is not known to what extent women sponsored their spouses or their own families during the two decades following World War II. Given the preferences based on national origin and the requirements of Canada's labour force, one would think that women in professional positions from the United States and Northern Europe were largely responsible for sponsorship—whether or not they had arrived under the aegis of their spouses. Surely, only these women were able to receive and care for relatives they brought to Canada.[29] It is known that a large number of women from the Caribbean settled in Canada, first as domestic workers, then as nurses. These first settlers often came up against insurmountable obstacles. This was justified in 1960 by the Director of Immigration as follows: "Girls chosen as domestic servants are either from the lower classes in their countries, in which case, relatives they sponsor are likely to be unskilled workers, or if they are superior types, they are unlikely to remain domestic servants" (Satzewich 1989).

1967-1978: Implementing Current Regulations

Several amendments were made in an effort to consolidate the Act of 1952. The *Immigration Regulations* of 1967 (Canada 1967), clearly the most important, abolished the

discriminatory measures of the 1952 Act that excluded immigration candidates based on their national and ethnic origin.[30] This regulation established a point system, in which points were awarded based on the applicant's "personal qualities." As such, it instituted three distinct categories of admissible classes: "independent applicants" accompanied by members of their immediate families, "sponsored dependents" and "nominated relatives" (Canada 1967).

The *Immigration Regulations* of 1967 are essential to our understanding of the recent history of spousal sponsorship, since they establish two distinctions on which subsequent legislation, right up to the present, has been based in terms of granting or denying entry to Canada to various classes of relatives.

The first distinction is that between the family accompanying the applicant on entry into Canada, and the family that a citizen or a Canadian immigrant can send for abroad once he or she has settled in Canada. In the latter case, there is no indication of a contractual obligation for the assumption of responsibility by the resident for immediate family members sent for abroad and designated "sponsored dependents" under the *Immigration Regulations* of 1967 (Canada, 1967, sections 31(1) to 31(4). The assumption was that the term "sponsored dependent" designated a "natural" relationship of dependence or moral obligation that did not require definition under contractual provisions. The subtext here leads us to believe that the family model based on the patriarchal structure of a spouse who supports the household and meets the needs of his wife, children and aged parents was still very prevalent.[31]

The 1967 Regulations introduced a second distinction in terms of the individuals a permanent resident or Canadian citizen can send for from abroad. While the provisions for immediate family are very vague, those for close relatives, referred to as nominated relatives, entailed a five-year contractual obligation (Canada, 1967, sections 32(1) and 33(1)). This was the government's attempt to curb the immigration of unskilled relatives while responding to public opinion which was becoming increasingly sensitive to the issue of human rights as well as traditional pressure in favour of reuniting close family members.[32]

In this way, Canada streamlined the arrival of a labour force that suited its needs, while closely monitoring the country's ethnic composition. Canada, therefore, reasserted the right of reunification for the immediate family, which has remained a major tenet of immigration policy ever since.

In 1976, the *Immigration Act*, still in effect today, was passed. Its objectives are family reunification, non-discrimination, humanitarian concern for refugees and the promotion of Canada's social, economic, demographic and cultural goals.

The *1978 Immigration Regulations* that followed the Act, however, modified the admissible classes of family members permitted to enter Canada to join a citizen or permanent resident. From then on, "sponsored dependents" fell under the family class and "designated relatives" under the "assisted relative" class. The 1978 Regulations stipulated a 10-year obligation to

support individuals from the family class—a provision that did not exist in 1967. These regulations also instituted the possibility of prosecuting the assisting relative in case of default.

From a historical perspective, the distinctions made in 1967 significantly changed the scope and meaning of the assumption of responsibility. The sponsor's obligation to assume responsibility initially involved close family members, whereas in 1978, this obligation extended to the immediate family. Assisted relatives were also required to meet selection criteria that would change over the ensuing 15 years.[33] It was as if Canadian restrictions on sponsorship of the immediate family allowed it to eliminate its discriminatory provisions based on ethnic, racial and national origin.

Two questions merit consideration. First, what impact do these measures have on spousal relations and on the reality of the sponsored spouse, particularly in light of the fact that immigration policy has historically been informed by the desire to develop a white male labour force? Why, in 1978, did the state suddenly choose to institute the obligation of the assumption of responsibility between spouses that had not been previously raised during the century?

1978-1998: Implementing the Current Sponsorship System and Its Impact on Immigration

Diversified Immigration

The provisions adopted during the 1960s and the *Immigration Act* of 1976 profoundly changed Canada's demographic landscape by opening the door to much more diversified immigration. While the immigration of White Europeans topped 70 percent in 1968, it fell below 40 percent in 1978, and dropped sharply to 17.7 percent in 1996 (55.3 percent of immigrants were from Asia and the Pacific, 16.11 percent from Africa and the Middle East, 8.21 percent from South and Central America and 2.58 percent from the United States).[34]

The triplicity of immigration policies (a rationale of economic development based on the selection of immigrants who will quickly integrate into the country's economy, a "social" rationale of family reunification and a humanitarian rationale of welcoming refugees) depended on the implementation of regulations and the "daily" management of applications. The statements of principle contained in the law are, therefore, less revealing in terms of the racial and gender biases that were so apparent during the first 60 years of this century. Rather, certain biases emerged through practices, regulations and more or less subtle policy changes, in terms of the immigration "scheme" (number of persons admitted from the various classes, emphasis on certain economic characteristics required in order to gain entry to Canada, resources allocated for integration based on gender, etc.).[35]

In terms of sponsorship, the mid-1980s were marked by a renewed debate in favour of greater openness to those who stood to benefit from the program. On the one hand, it was charged that a sponsorship plan that reduced the definition of family to the immediate family was ethnocentric, since the family structures of newcomers are not defined in terms of Canada's prevailing notion of the "nuclear" family. On the other hand, family reunification

is written into the law such that Canada promises to maintain the family unit as the basic unit of society (Canada 1976, section 3c). For many who are committed to a pluralistic Canadian society, these arguments have a profound resonance.[36] In 1986, for instance, the Standing Committee on Labour, Employment and Immigration of the House of Commons recommended that three categories of persons be included in the "family" class: family, designated relatives and assisted relatives (Islam 1989). This redefinition would serve to broaden the family circle eligible for sponsorship. The Committee's proposal was never adopted, but in 1988, the government did expand the category of relatives eligible for sponsorship by including, in the family class, unmarried children and parents regardless of age.

The Figures

Recent figures on the distribution of categories are very revealing of current orientations with regard to family reunification. In Ontario, in 1993 as well as in 1987, the actual number of sponsored women (37,195 and 17,156) in relation to the number of sponsored men (26,656 and 12,679) reveals a marked difference in the status of newcomers (EIC 1987; CIC 1993, 1998). In Ontario—the province where the survey that constitutes the focus of this report was conducted—the percentage of people from the "family" class rose from 35.2 percent in 1987 to 47.5 percent in 1993. While, for all of Canada, in 1994, 38.81 percent of the family class consisted of spouses and 5.61 percent of fiancés, the number of sponsored spouses reached 46.80 percent in 1996 (unchanged for fiancés), and the number of newcomers remained about the same (CIC 1996). It should be noted that the statistics gathered at the federal level were not broken down according to gender.

Furthermore, there was a significant decline in the number of sponsored parents and grandparents: from 41,307 (44 percent of the family class) in 1994, to 33,019 in 1995 (42.79 percent), and then to 24,417 (36.13 percent) in 1996 (CIC 1996). In 1999, the Department anticipated the arrival of 15,500 to 17,300 sponsored parents and grandparents, or approximately 7.5 percent of newcomers.

Recent figures also point to a marked increase in the number of principal applicants admitted as independents into Canada, from 97,212 in 1994 to 119,905 in 1996. The figures also reveal that the number of "dependent" persons—those directly accompanying the principal applicant (as opposed to persons sent for after the applicant has settled in Canada)—represents 60 percent of all independent newcomers.

Restrictions or reductions in the sponsorship of parents and grandparents, the large number of sponsored women, and a distinct increase in the category of persons admitted in the "independent" class are all factors indicative of a concomitant increase in the number of dependants accompanying principal applicants. These are the obvious trends that can be inferred from immigration figures broken down according to the categories of admission to Canada— trends that have an impact on sponsored immigrant women and their place in the immigration process.[37]

The two major trends that can be derived from federal policies have a significant impact on the situation of sponsored women. On the one hand, as a result of neo-liberal policy making

and the disengagement of the state, there is a move away from investing in direct federal services to newcomers. On the other hand, there has been an obvious attempt to attract immigrants who are selected based on their ability to integrate into the so-called new knowledge-based economy, and to favour immigration of the "independent" class. In fact, this is the objective stated in the 1994 working paper tabled by Citizenship and Immigration Canada which states that the management of each immigrant class and the proportion that each class represents in terms of overall immigration must take into account the program's objectives rather than certain, arbitrary quantitative targets. For instance, if the immigration target for the economic class is not reached, the numbers in the family class will not be increased in order to reach the overall objective sought, or vice versa. Management tools, including limits expressed in real numbers, will be introduced if applicable in order to maintain a balance among the various classes.

A New Order in Immigration

Canada's emphasis on economic development based on knowledge and communications has significantly changed the overall orientation of the selection criteria for "independent" newcomers. While Canada favoured professions that were in high demand until the early 1990s, the current focus is on a person's ability to adapt to the ever-changing global economy[38] which implies a preference for educated English-speaking applicants who, ideally, are able to fit into a rapidly changing and yet highly sophisticated professional niche.[39]

What effects does this trend have on women candidates for Canadian immigration? Clearly, it paves the way for female immigration in contexts other than those of family reunification or domestic work. Yet women have considerably less chance of being accepted as principal applicants since, generally, the majority of occupations and professional skills in demand are traditionally male-dominated. In addition, by imposing education, training and mastery of a language as the main selection criteria, no consideration is given to the fact that in many of the countries of origin of immigrant women, most women do not enjoy equal rights to education and training. As a result, immigration limits the "sponsored" status to women who are already the most vulnerable and increases class disparities among immigrant women.

The Decline of Integration Policies

A new awareness of inequalities and changes in the demographic make-up of Canadian immigration led to improvements in integration services provided to immigrants in the years following the adoption of the 1976 Act. The widespread deficit-slashing approach adopted by all levels of government in charge of funding services to newcomers[40] is jeopardizing the ability of organizations to meet the needs of their clients, despite the relatively high number of newcomers. Budget cuts have had an impact on the number of settlement services offered, particularly—although not exclusively—in the province of Ontario. In 1996, the Toronto Social Planning Council (Mwarigha 1997) estimated that 43 percent of programs for immigrants in the city were likely to be eliminated. George and Michalski (1996) found that close to 85 percent of services had been cut back. The disengagement of the state in terms of financing areas related to integration seems to have resulted in the transfer of responsibility for integrating newcomers to private and individual initiatives. This

exacerbates the difficulties facing immigrants already vulnerable due to socio-economic obstacles which are examined more closely in the third part of this report.

In an attempt to reduce deficits and the adoption of neo-liberal policies in recent years, the federal government as well as the Ontario government have unraveled Canada's social safety net. These "reforms" have taken various forms including fewer funds to social assistance, reduced eligibility for employment insurance[41] and devolution of responsibility to the family of providing material support. This is the approach adopted by the federal government in its attempt to enforce the sponsor's obligation to assume responsibility for sponsored persons. In a 1994 report entitled *Into the 21st Century: A Strategy for Immigration and Citizenship*, Citizenship and Immigration Canada referred to sponsorship in terms of respecting obligations and controlling costs, which clearly illustrates the rationale behind the current discussion on the issue of sponsorship. The fourth part of the report contains an in-depth analysis of this final aspect of immigration policy and its legislative underpinnings, and the extent to which it affects the equality rights of sponsored women, in particular. In fact, the federal government recently proposed similar reforms which are also addressed in Part IV of this report, although, for our purposes, we have simply demonstrated the extent to which these new measures constrain sponsored women to the private sphere. Through its disengagement, in favour of the husband, the state has, in effect, created a kind of "family government" to which sponsored persons are subject.

The Particular Case of Francophone Ontario

Since this study was conducted among a group of sponsored Francophone women in Ontario, it is only fitting that we conclude this part by specifying the conditions specific to Francophone immigration in Ontario.

Limited figures are available on Francophone immigrants in Ontario. The estimated number according to Gilbert and Langlois (1994) is 82,000, but if the count is restricted to people who speak French at home, this figure falls to 48,710.

Researchers have few variables to work with in order to get a clearer picture of Ontario's Francophone ethno-cultural population. French-speaking newcomers, whose mother tongue is not French and who do not speak French at home, are not enumerated as Francophone. Yet most Francophone immigrants who settle in Ontario share the same multiple origins as the rest of the immigrant population. These French speakers are not listed in the statistics as Francophone, which means that the number of French-speaking newcomers is greatly underestimated. Furthermore, the statistics often only take into account the province of destination, which excludes a number of Francophones who first arrived in Quebec but later settled in Ontario (Kérisit 1998; Berger 1996).

As a result, these individuals may have disappeared from the map, and their small numbers may explain their difficulties obtaining services in French. In addition to the racial and gender discrimination faced by sponsored Francophone women, their status as a linguistic minority hinders their chances of social integration and employment. These aspects are dealt with in the next part of the document.

3. LEGAL FRAMEWORK FOR SPONSORSHIP

General Principle

A woman who wishes to immigrate to Canada to join her spouse must obtain prior permission to set up permanent residence from immigration authorities.[42] If a woman cannot qualify as an "independent"[43] immigrant, she must be sponsored by her spouse.

Sponsorship is a process in which the "sponsor"[44] formally agrees to provide for the sponsored person's essential needs and to reimburse any social assistance benefits that the latter may receive during a 10-year period.[45] Spouses are eligible for sponsorship since they fall under the "family class."[46]

Since one of the objectives of the law is to reunite families,[47] persons belonging to this class are not required to meet the selection criteria applicable to independent immigrants.[48] Sponsored individuals are, however, required to fulfil certain promises that impinge on their rights, which will be examined further on. Specifically, the right to social assistance is hampered by sponsorship.

In order to qualify for sponsorship, a female immigrant must be the "spouse" of a permanent Canadian resident according to the definition set out in the *Immigration Regulations* which only includes persons of opposite sex joined together through matrimony.[49] Common-law marriages, same sex unions as well as bigamous and polygamous marriages are, therefore, excluded.[50] A woman may also be sponsored by her fiancé, provided that the couple marries within 90 days of her landing in Canada.[51]

Obtaining Permanent Residence Status from Outside Canada

Although family reunification is one of the objectives stipulated in the *Immigration Act*, section 9(1), a female immigrant must request and obtain a permanent residence visa before entering Canada. This procedure means that the couple must be separated for the period required to process the request, for a minimum of 12 months.[52] In addition to causing emotional suffering, this forced separation also entails additional costs such as those associated with long-distance calls and travelling.

The sponsor must fill out a number of documents and forward them to an immigration office located in Canada. These forms are intended to ascertain that the sponsor is a Canadian citizen or permanent resident, aged 19 or over, who meets the admissibility criteria.[53] Included in this series of documents is a "sponsorship undertaking form" which binds the sponsor to the federal government, as well as a "sponsorship agreement" which is a contract to be signed by the sponsor and the sponsored spouse. As we examine further on, it was only in April 1997 that immigrant women were formally included in the sponsorship agreement.

The sponsor can withdraw his undertaking of sponsorship at any time before landing is granted to the sponsored person and permanent residence has been obtained. The withdrawal

of sponsorship terminates the permanent residence application.[54] The sponsor may not, however, withdraw his sponsorship once the request for permanent residence has been processed and accepted (Canada 1996: IE9.14(3)).

Unlike cases in which other family members are sponsored, the sponsor promises to provide for the needs of his spouse without having to prove his financial ability to fulfil this obligation (Canada 1978: sections 5(1) and 6(3)).

An application for permanent residence must also be filled out by the immigrating spouse and submitted to a visa officer overseas. The application is reviewed in order to ensure that the candidate meets all the criteria pertaining to health, criminality and public safety. This review is also intended to verify the authenticity of the marriage to ensure that the marriage is not one "of convenience," contracted in order to obtain entry into Canada, rather than to live together permanently as husband and wife.[55]

Once the officer is satisfied that the application for permanent residence does not contravene the *Immigration Act* and *Immigration Regulations*, the officer issues a valid visa for a specified period.[56] The official date for receiving permanent residence status is the date the candidate was physically admitted into Canada at a point of entry. This is also the date on which the undertaking of sponsorship takes effect.[57] The document attesting permanent residence (Immigrant Visa and Record of Landing – IMM 1000) is valid for an undetermined period and, therefore, does not require renewal.

Obtaining Permanent Residence from Within Canada

A female immigrant living in Canada without a permanent residence visa[58] may be sponsored by her spouse provided only that she has been exempted from the obligation to obtain a visa from outside Canada. The *Immigration Act* states that this exemption may be granted on "humanitarian grounds." Hardship resulting from the separation of spouses constitutes sufficient humanitarian grounds to justify the processing of an application for permanent residence in Canada.[59] Immigration officers process the application made from within Canada provided that the immigrant can convince them that the marriage is authentic and was contracted in good faith. In other words, the woman must be able to prove that she did not marry in order to gain entry into Canada.[60] If a candidate obtains permission to submit her application for permanent residence from within Canada, she may remain in Canada until the authorities have reached a final decision.[61] It can take 12 to 36 months to process the application.

It is important to point out that immigrant women are in a precarious situation during this long waiting period. In fact, the status of an immigrant woman in Canada depends entirely on the sponsor since he may withdraw his sponsorship undertaking at any time prior to the granting of her permanent residence visa.

In case of withdrawal of sponsorship due to the break-up of a marriage, the *Immigration Manual* (Canada 1996: IE 9.14 (3)) stipulates that if the application for permanent residence has been processed and accepted at the time the withdrawal is made, the sponsored

candidate may be granted an immigration visa. If not, the application process is terminated and the woman finds herself in Canada without legal status. She must leave the country unless she can convince the immigration officer that permanent residence should be granted on humanitarian grounds. It must be noted that the humanitarian considerations applicable at this stage are completely different from those that initially justified the application for sponsorship to Canada. To begin with, it is the immigrant's responsibility to prove that she can settle successfully in Canada. Furthermore, she must prove the existence of various humanitarian considerations, such as conjugal violence, pregnancy or the threat of serious repercussions if she were to return to her country of origin. The criteria for granting permanent residence for humanitarian reasons will be addressed in Part III.

The Rights and Obligations of Permanent Residents

Permanent residence status confers the right to enter and live anywhere in Canada (Canada 1976: section 4). It does not, however, entitle individuals to vote, nor does it provide access to certain public service jobs.

Permanent status is valid for an undetermined period and does not require renewal.[62] Permanent residence may, however, be withdrawn by immigration authorities in very specific circumstances. Candidates who reside abroad for more than 183 days in a given year are presumed to have renounced residence in Canada. If a returning permit is obtained prior to departure from Canada, the presumption may be overturned (Canada 1976: ss. 24 and 25). Furthermore, permanent residents may be removed for various reasons (Canada 1976: section 27), such as failure to respect the conditions of entry,[63] perpetrating a criminal act or engaging in subversive activity, and gaining entry based on false documents.

Sponsorship Agreement

In April 1997, the federal government adopted a new standard sponsorship contract (document IMM 1344B (01-2000)E) that must be signed by the sponsor and the sponsored immigrant.[64] This document is part of the sponsorship undertaking between the sponsor and the federal government. Both these documents have legal repercussions for the spouses.

Sponsorship Agreement Between Spouses

According to the sponsorship agreement between spouses, the sponsor must, for his part, provide for his spouse's essential needs over a 10-year period. In addition, he agrees to fulfil his obligations promptly, at the request of the sponsored person, so that she is not forced to apply for social assistance. Under the agreement, the parties agree that "essential needs" refer to lodging, food, clothing and all other goods or services required in daily life, and that the sponsor can satisfy his obligation by offering money or by buying food, clothing or providing any other service needed to meet the essential needs of the sponsored person. The sponsor must prove that he has sufficient financial resources to fulfil his obligations to the sponsored person.

For her part, the sponsored person promises to make reasonable efforts to meet her own essential needs, as well as those of her dependent children, while she is in Canada, even if

she is only able to fulfil her needs partially. She also agrees to request financial support from her sponsor if she is unable to provide for her essential needs, rather than turning to social assistance.

This sponsorship agreement is valid for a 10-year period which begins at the time the sponsored person is granted entry into Canada as a permanent resident.

The agreement specifically states that a sponsored woman may take action against her sponsor for failing to respect his obligations.[65] The agreement stipulates that the sponsored person may transfer the right to take action against an assisting relative in default to a third party, for example, to the provincial or municipal government. A sponsored woman who does not receive support from her husband may, therefore, take legal action herself or authorize a government office to do so on her behalf.

The sponsorship agreement raises some interesting issues in terms of contract law, such as determining whether or not the object of the contract is recognized by the law. Usually, when a party enters into an agreement, there is a specific motive—referred to as a "consideration." The contract is a reciprocal agreement in which one party provides something or makes a promise, in exchange for something else.[66] What needs to be determined is what the spouse will "provide" in exchange for the promise of support from her spouse. Under the terms of the contract, she merely promises to attempt to fulfil her own essential needs and to ask for the sponsor's assistance only if she is unable to do so. What is perhaps suggested, however, is that the sponsored women agrees, among other things, to play the role of the spouse, to perform household duties for free, to care for the children, her husband and her in-laws, to be sexually and emotionally available to her husband. Are these valid considerations under contract law? Are these really the obligations that the sponsored woman agrees to fulfil?

The Sponsor's Commitment to the Federal Government

When the sponsor signs the "sponsorship undertaking" (document IMM 1344A (01-2000)E), he makes a promise to the federal government to provide support for the sponsored person's essential needs so she does not have to apply for social assistance or another such program listed in Schedule VI of the *Immigration Regulations*.[67] The regulations specify that this Schedule may change from time to time. This commitment extends over 10 years, and neither the duration nor the content of the obligations may be modified, even if the sponsor's situation changes. The document stipulates that even if the sponsor loses his job, goes back to school or separates from his spouse, the same obligations apply.

The sponsor has, therefore, failed to meet his obligations if he does not fulfil the sponsored person's essential needs and, as a result, she is forced to apply for social assistance. Furthermore, the sponsor continues to be at fault until he has reimbursed all sums received by the sponsored woman in the form of social assistance or has made arrangements with the provincial and municipal bodies that provide social assistance in order to reimburse these sums.

The text accompanying the undertaking stipulates that all sums received by the sponsored woman in the form of social assistance become a debt owing by the sponsor, and that the Minister of Citizenship and Immigration Canada may institute proceedings in order to recover these sums. Furthermore, the federal government may assign the debt to a province that may then take action against the sponsor in order to obtain a reimbursement of sums paid through social assistance to the sponsored person. Finally, it is important to note that the sponsorship undertaking stipulates that if the sponsor fails to fulfil his obligations, he may not sponsor another person of the family class as long as he remains in default.

If the sponsor merely fails to meet the essential needs of his spouse, he is not technically in violation of the undertaking of sponsorship. The spouse must, in addition, have received social assistance. This clearly shows that the federal government is only concerned about ensuring that the sponsored woman does not become a public charge, with very little concern for her well-being or her economic stability.

Furthermore, despite the fact that sponsorship undertakings are rarely respected, the federal government appears reticent to take action against defaulting sponsors to recover social assistance paid to sponsored spouses (contrary to the situation in Quebec which will be examined in Part IV of this report). In a context of increased budget constraints, however, there is every reason to believe that sponsored women who received social assistance will be forced to transfer their right to prosecute defaulting sponsors to provincial and municipal authorities in order to recover these sums.

PART II: UNDER THE RULE OF STATE, FAMILY AND MARRIAGE

INTRODUCTION

The second part of this report is devoted to the testimonies of sponsored women who were interviewed within the framework of the socio-anthropological component of the study. Indeed, from the outset, the researchers were convinced that in order to anchor their legal analysis of the status of women sponsored by their spouses, it was important to go straight to the source to understand the mechanisms at work in subjugating women sponsored by their spouse through first-hand accounts of their experiences. The second part of the report, therefore, comprises accounts of these women,[68] numbering 16, who agreed to discuss their lives and their difficulties at length, but also their achievements and strengths. This part is, above all, descriptive and attempts to echo the voices of these women in a context where they are often silenced or poorly heard. Clearly, there is an urgent need to bring the law into the daily lives of these women. In this vein, "understanding how various women experience institutions precedes discovery of how institutions respond to or ignore various women's interests." (Goldfarb 1991: 1635).

The participants' statements were divided into four main sections. The first section traces women through the complex maze of immigration procedures and regulations, and describes their experiences. This section also reflects their diverse experiences, while examining some of the institutional mechanisms which force women to arrive and live in Canada under conditions that turn them into "minors" under the guardianship of their husbands, even for women who are in healthy relationships.

The second section deals with the impact of sponsorship on spousal and family relations. The women interviewed spoke, sometimes in great detail, of the impact of sponsorship on their relationship with their husband. They also explained to what extent conjugal authority was exacerbated by their sponsored status. We, therefore, examined the various forms of control that a husband exercises or may exercise, by exploiting the context of immigration, to subjugate and isolate his wife. The issue of violence against sponsored women is, thus, at the core of our analysis since it reveals patriarchal power relationships and is the ultimate expression of the denial of women's rights.

The third section paints a broad picture of the conditions of integration and the socio-economic reality of the women interviewed. Rather than dwelling on a portrait based on numbers, we chose to listen to what these women had to say and how they perceived these conditions. The focus is, therefore, on how these women overcame various obstacles to integration and how they dealt with various forms of discrimination. Indeed, their testimonies are tainted by experiences of discrimination, particularly racial discrimination.

The fourth section is an attempt to understand various types of recourse available to sponsored women to help them overcome difficulties, particularly when they are victims of violence. This section describes the obstacles they faced in this respect and how they

managed to tap into support services, for women who are victims of violence, and other assistance services. Greater focus is placed on understanding the psycho-social factors that affect women's access and recourse to services, rather than the provisions of sponsorship laws and regulations—the mechanics of which are analyzed in Part III. This analysis reveals that women awaiting status are most vulnerable in this respect. But by limiting our focus on vulnerability, we run the risk of narrowing our understanding of the lives of the women we interviewed. Part of this section is, therefore, devoted to portraying the strength and energy of these women in building new lives for themselves and for their families.

1. WOMEN'S EXPERIENCES WITH THE IMMIGRATION AND SPONSORSHIP PROCESS

For the women interviewed, what were the key factors in their immigration to Canada? For instance, who made the decision to immigrate or to embark on the sponsorship process? How did the immigration process unfold? What were the obstacles or enabling factors that came into play? Did the women know what to expect? These are the questions we have attempted to answer. In fact, the answers constitute a general framework for the more personal experiences described in the following sections.

Sometimes, the decision to immigrate to Canada is made by both spouses, as in Esther's case, although we get a sense that she did not instigate the process.

> *We made decisions together. We would propose something and try to discuss it to see if we were in agreement, or not.... But, in terms of our decision to come to Canada, well, it was my husband who suggested it, and I accepted.*

In many cases, the decision was made unilaterally by the husband, as in the case of Lucie.

> *No, it was him. He was planning to come and he told me that I'd join him later.*

Once the decision to immigrate to Canada is made, women must deal with the bureaucratic requirements imposed by Immigration Canada. In addition, they must wait for several months, sometimes years, to obtain permanent residence, whether they apply from outside or from within Canada. Eight of the women interviewed said that their husbands initiated the immigration process while they were still in their countries of origin. This is the standard scenario envisaged by the *Immigration Act*. The other eight respondents stated, however, that they had initiated the process once they were in Canada. We will see that in the latter scenario, women experienced particular difficulties given their potentially precarious situations.

Procedures and Timeframes

Steps Taken Outside the Country

Generally, the waiting period for permanent residence is a difficult obstacle to surmount for women whose husbands submit applications while their wives are still in their countries of origin. This waiting period entails a long separation between spouses at an important turning point in the marriage. This separation can be extremely difficult. Sometimes, women are separated from their children. In all cases, women must prepare to sever ties with their country of origin, their families and their surroundings. This is how Carole describes this period.

> *Yes, it was difficult because my children were already here as well as my husband, and I was all alone back home. I had to sell my business and leave everything behind. That was hard.*

Furthermore, the women who participated in the study reported that they had great difficulty communicating with the embassies in areas poorly served by the Canadian government. Gathering the information and documentation required by Immigration Canada is a long and tedious process. For women living in West Africa, in particular, communication with immigration officers or government representatives can represent an insurmountable obstacle in itself. This was the case for Elisabeth who waited in vain for an immigration officer posted on the Ivory Coast to meet with her in Zaire. These meetings occur only once every six months and Elisabeth was not living in the capital city. She missed the much-awaited meeting as a result of the Canadian authorities' failure to inform her of the date on time.

> *Because, well, normally, I was supposed to have the interview in Kinshasa. But there was a problem because a letter was sent to me from the Ivory Coast informing me of the date the officer would be in Kinshasa for the interview, but I didn't get the letter in time. Even though I went down to the embassy [in Kinshasa], every two weeks, to ask if they had received anything for me. Anyway, I went down on March 1 to find out if there was anything for me. He said there was nothing. So, I went home. I waited until, I think it was April 13th...I received the letter.... The letter said the interview was set for the seventh and it was posted on the fifth. It was posted on the fifth and the interview was on the seventh.... So, I didn't receive it in time.... The people from the Ivory Coast had sent the letter to the embassy a long time before.... It was lying around the embassy...I had gone in to ask if they had anything for me, and they had said no. I never understood why.... When I returned, they told me the immigration officer had already left and that I'd have to wait another six months for him to return to Kinshasa.*

Submitting Applications from Within Canada/Living Without Status

The situation appears to be particularly difficult for women applying for permanent residence from within Canada. The restrictions imposed on women during the application processing period, which often takes up to two years, causes great suffering. The fact that women are not automatically granted permission to work or study is indeed problematic. Work and study visas are only granted through official request and include administrative fees which are added to the $1,475 already paid out for the application for permanent residence. In addition, these permits are only valid for a limited period. Rachel explains.

> *I have to pay again to obtain a new status. I paid $125 for my student status. Then, $125 for the worker status. And since my visas were terminated because of the papers, I now have to repay either $125 or $65 for a new tourist visa.*

Moreover, work permits are often long in coming, as Esther explains.

> *The people at Immigration told me I needed a work permit very fast so I could start looking for a job. But then it took about six months for me to obtain the permit.*

During this period, many women were unable to receive health services, social assistance and other programs offered, in theory, to the entire population. Catherine found the experience very difficult.

> *It's hard to wait like that. And when they say you're not entitled to this or that, and you don't even have access to the services available.... Well, you might as well just tell people that they're not allowed to stay.*

In some cases, the bureaucratic requirements are too rigid and do not take into account the reality of women awaiting status. Amira explains how her application for permanent residence was processed one year later than expected because she could not provide the required X-rays due to the fact that she was pregnant. As a result, she was not entitled to free health care.

> *A: Even on the day I gave birth, the lab tests, the ultrasound, that's a lot of money. We paid for everything, and we were not reimbursed by Canada because I didn't have landed immigrant status, and the day I delivered, they kept me for only one day, because they knew that we were in a difficult situation. That day cost me $1,226, for the baby and me. And I was discharged the next day. I was in the hospital for 24 hours. [I couldn't stay for two days] because it would have cost me $3,000 to stay for two days. So it was a very difficult situation. And Immigration refused to complete the application because I was pregnant, and they were waiting for my X-rays. But I was pregnant, so I couldn't have an X-ray. So, after the birth, I had to do it. So, the application was delayed for a year.*
>
> *Q: So your papers didn't arrive simply because you didn't have that paper, the X-ray?*
>
> *A: Yes. They said my tests were "incomplete." It was the X-ray that they wanted. So I had to wait all that time, to have my baby and then have the X-ray done.*

Clearly, women feel trapped and powerless while waiting for their status to be granted. Catherine describes how she felt.

> *Because I couldn't travel. I couldn't do anything. I couldn't work, couldn't study. These are all things that make you feel trapped, paralyzed. You want to do things but you can't. You're stuck. You can't do anything.*

Amira adds that her difficulties were due to the fact that she had no social insurance card.

> *The first difficulty, since I was a visitor, was that I had no right to do anything. I couldn't study, couldn't work and I was always.... So I was stuck. I didn't have a social insurance card.... Yeah, that's why it was so hard for me in the first year.*

The situation is even more dramatic for those who, for one reason or another, have no status in Canada. This is especially the case for women who have not yet applied for permanent residence and whose visitor, work or student visa has expired. In some cases, the spouse withdraws the sponsorship undertaking before the wife has obtained permanent residence, or the fiancé fails to marry within the 90-day prescribed under the Immigration Act. This was the case for Catherine who found herself in an illegal situation.

> *Q. Did you get married within the 90-day period?*
>
> *C. No, no, no. It was later than that. It took about four or five months because we were in Montréal, we had to move to [X, city of residence]. In Montréal it's even longer because you have to publish banns. Here, it was a little faster. When we arrived in X, it took us another two months to get married.*

Women without status live in constant fear of expulsion, marginalization and isolation, without access to the institutions and programs that can alleviate the shock of immigration, facilitate social integration and, through such things as social assistance, ensure the family's daily survival.

Documentation, Forms and Interviews

The procedure for filling out and submitting required documentation from within Canada is perceived as tedious and sometimes confusing. Amira explains.

> *The procedure? In my case, they asked me for my marriage certificate, my birth certificate and official wedding photos as well as four photos of myself—personal ones. They asked me about my education, the diplomas I had received, a photocopy of my passport that had to be valid for more than six months. They asked me for a $1,450 cheque.... I'll never forget that!*

The procedure is even more complicated for applicants who must deal with both federal and provincial authorities, as in the case of Esther.

> *I met with an immigration officer with the Quebec government. So I had to deal with the people from Quebec. I filled out the form, the forms. But I also had to deal with federal immigration, the federal immigration office which presented me with a long questionnaire. It was really long. So we filled it out. It asked about my practical training, years of schooling, if I had any debts, how I left the country, etc. So, I followed all the procedures and I also had to undergo medical examinations.*

Catherine's experience was long and difficult because her file was transferred from Montréal to her city of residence (Y) without her knowledge, which resulted in an eight-month delay.

> *They told him [my husband] at Immigration here, in Y, that the documents had to be sent to Montréal. We made a trip to Montréal to bring the*

documents to Immigration in Montréal. There again, we lost an entire day. Then we waited about.... God, it took a long time for us to get an answer. When we went to Montréal to inquire, because we had to communicate with the people in Montréal, the officer told us that it had been re-transferred to Y, without our knowledge. We didn't know anything about this. No one informed us that the document, that the file had been transferred from one office to the other. Finally, my husband kicked up a fuss, which forced them to take a more structured approach. Someone finally took up my file, which was going from office to office, as I waited desperately. The waiting literally made me sick. We wasted about eight months like that, with my file being transferred back and forth.

Elisabeth sums up her experience in two sentences.

The only difficulties I had were obtaining my papers. It took close to one year for me to get my immigration visa.

In addition, Immigration Canada forms are apparently difficult to understand which only exacerbates an already complex procedure, particularly given that immigration officers are not available to provide information to immigrants. Lucie explains.

They just hand you the forms, they send you the forms and it's up to you to figure it out. They give you a number. So you call and you get their answering machine. That doesn't help. It's not easy to understand. They hand you a pile of forms that are not easy to understand. You make mistakes. Or you fill in things that you didn't really want to say.

Esther adds:

I had to go in to the immigration office, and then to the Quebec immigration office for the provincial questionnaire. So we went to get the form and then we had to fill in an extremely long form, and hand it in to both the provincial and federal authorities, and we had to pay.

Some of the respondents also recognize that the way in which the forms are filled out carries a lot of weight. Their accounts reveal the distrust of Canada's immigration officers who look for contradictions, question their stories and could potentially refuse their immigration to Canada if they suspect that their marriage was contracted for the sole purpose of obtaining permanent residence. Judith describes her impressions.

They wonder if it's true. Is this a legitimate application? Because false applications are made. I remember when I went to the justice of the peace to get married. I was so dressed up that he said: "Oh, this is legitimate." It's because they know that some of the applications are phony. Not all of them are legitimate. Say my husband submits an application, it could be that the application is false, not an application between husband and wife. So, I don't

> *know what they thought of my application, but they didn't say anything. Only they did ask me a question to see if it was really true—they wanted to know if I was really in a relationship with him.*

Another respondent describes another scene during an interview with the immigration officer.

> *When I got there, I had an application and I had.... I had an interview with someone and [she] had me sit at a table for about 10 or 15 minutes and [she] didn't talk to me at all. She looked at me from time to time. It was a woman. She'd look at me from time to time without saying anything. After about 10 or 15 minutes, she said: "Did you know that your husband already had a wife in Canada and then divorced? So why is it that you're accepting to marry him? Did you know that he was divorced?" And I said: "Of course I know." She said: "Oh, I thought you didn't know that he was divorced." You see?... I wondered why she asked me that question. Why did she say nothing for 10 or 15 minutes and then, all of a sudden, she says: "Did you know that your husband was divorced?" And I said yes. I think that if I'd said no, she could have said that the man was hiding things from me. She could even have said that the marriage, or the application was false.... You see, you know what I'm saying?... I found that strange. And then afterwards she said nothing. And then she said: "OK, you'll have to wait for your medical exam."*

The Costs

The official sum required by Immigration Canada to cover the costs for processing an application for permanent residence is $1,475. Out of this sum, $500 are earmarked for administrative processing and $975 are for the visa itself.

Yet it appears that the actual costs for obtaining permanent residence are often higher. Some women say they paid as much as $3,000 or $4,000 to obtain their "papers." Unfortunately, little information is available on the type of costs included in these figures (e.g., honorarium for the services of an "immigration consultant" or a lawyer, fees required by the federal or provincial governments, the cost of obtaining documents and duplicates, medical exams, etc.). Esther describes her experience.

> *We found it hard, because we had to pay for all kinds of things. We had to pay for medical exams to obtain a work visa.... I had to have tests, X-rays, a checkup. All that cost a lot of money.*

For many women, like Lucie who separated from her husband and was waiting for permanent residence with only $300 per month to live (survive) on, the costs related to the application were a major obstacle to obtaining status.

> *You see, in this case I lost my status, so I had to pay for my residence. But I wasn't working and it was hard. It was hard.... And now I still have*

> *problems. For example, where am I going to find $500, because you have to pay $500 cash to Immigration and you have to take out a $975 loan? Where am I going to find $500? It's not easy. I think about it every day. Even if you really scrape the bottom of the barrel, with the $300 they give you but (inaudible) these $500.... I have a phone, I have cable too, because I can't just sit there all day with my eyes shut, sleeping. Television keeps me company. I have to have it. I also need a phone, because I live alone. If something happens to me...*

For Lucie, as for the others, it is extremely difficult to come up with these sums of money which must often be borrowed from the spouse who does not have the means or who keeps his spouse waiting. This is what happened to Rachel, whose spouse kept putting off the payments required for her permanent residence application to be processed.

> *We only paid the $975 two weeks ago because, you know, I'm dependent on my husband in the meantime and I have to wait until he gives me the $975. And that was the problem. Okay, I don't blame him, because $975 is a lot to give, especially when you consider that you're giving it for nothing because, well.... So I had to wait until [my husband] came up with the cheque.*

In response to the interviewer's question about what her husband said when she asked for the money to obtain her permanent residence, Lucie explains:

> *Well, he said, yes, yes. Just wait. Yes, I'll do it, I'll do it. And did you write the letter explaining why you didn't need to include your criminal record [from the country of origin]? And I said, yes, yes. And then things got delayed.*

The Attitudes of Immigration Officers

Generally, the respondents seemed to think that immigration officers' attitudes were "acceptable" or "normal" during their procedures. Amira, however, said that it was only once her situation was "under control" that the officers were polite to her.

> *During the procedures, they were not very nice, and they weren't helpful. They simply stated the law. That's the way it is. But once they sent the letter to say that I'd received landed immigrant status, they were very nice. They saw the baby. Yeah. They were really very nice and they congratulated me, and told me that I now had the same rights as everyone else here, in Canada. You can study, you can work, anything you want. But before, they were...either they're limited by the information they provide to immigrants, but they were not very flexible when it came to choices and things like that.*

Esther found that the people she dealt with were "rather cold" and had no "desire to provide information."

> *No, I found them rather cold. Nothing more. I had met with one person, one of the officers, who was very nice. But I think I only met with this person twice, during the whole process. And the last person I met was pretty unpleasant, but all I had to do with him was sign. I had lived in France before and I had to follow procedures of all kinds, for school bursaries, student residence visas, family allowance for my child. So I was pretty well versed in official procedures and I'm familiar with the attitudes of officers, bureaucrats and civil servants, so I wasn't surprised to see that they had no interest in providing information and explanations.*

Catherine describes how immigration officers abuse their position of power which she witnessed first-hand.

> *Abuse of power, yes. They abuse it a lot. I saw some people being so badly treated that I wanted to speak up for them, families that arrive there, because I was lucky—lucky in quotations—because my husband was not waiting at the same time as me. But there are families who arrive at the same time with children and who are turned away like that.*

She also points out a blatant refusal to provide assistance and information.

> *Sometimes, you get there, and you see people, so you have to line up. There are people who have been in line, waiting. At eight o'clock in the morning, they're there. You arrive, and they tell you the computer is down. The officer's station is shut down. He can't tell you a thing, even though the stations beside him are operating. People who don't understand what's going on, well, they just accept it and leave. But you have to insist. Something should be done so people get the information they need. After all, they're asking for information about themselves.*

Immigration officers' failure to listen to, and show sensitivity toward, immigrant women is reflected in some of their statements, which are perceived as ambiguous, inappropriate or threatening, as illustrated by Rachel's experience.

> *She asked me if we [she and her husband] got along well. Then she said: "You know, we don't ask you these questions because we want to know all the details of your relationship. I mean, we don't want to pry into your personal life, it's just that there are people who send for their wives...just so that they can treat them like..." If I remember correctly, [the officer told me the story of] a woman who was pregnant when she arrived, which I thought was a really big deal...but [the officer] told me: "I asked him why he had married his wife. I don't know if he showed me a photo or what, and then he said 'Do you see those legs? She's a strong horse.'" That's more or less what she said the guy told her. I was shocked...that she had good legs and was a strong horse for bearing children, that is. A good strong mare, I suppose.... That's when I started to wonder what they were trying to get at with their*

story, because in my opinion, it's...I don't know. I was really confused when I walked out of there. I didn't know what they expected from me. It didn't make any sense.

As in the case of the respondent who was asked if she knew that her husband had been married previously, Rachel's immigration officer was probably trying to warn her about the exploitation that some women face when they arrive in Canada. However, this type of awkward warning leads to more confusion than enlightenment. Furthermore, one wonders if this "well-intentioned" immigration officer is not prone to generalizations about immigrant women who are all victims of macho "traditions" and immigrant men who are all seeking to oppress their wives. These kinds of stereotypes are rooted in racism. As Esther suggests, immigration officers should receive training to raise awareness about the diversity of immigrant realities and about their own racist notions.

I think that immigration officers should receive training in human relations because I saw how some officers treated a woman from Mexico, she was treated...as though she had rabies. I tried to help a woman who was having problems with her papers and I saw how she was treated, like a criminal. And she was a woman who was coming to study for a few months and then return to her country. Clearly, I was dealing with people who have no respect, no respect at all, for the people who [are sitting right in front of them]. I think immigration officers are in need of training and education so they can understand why people [immigrate], so they can treat them like human beings.

Most of the respondents, however, feel that a lack of information about the status and rights of immigrants prevents immigration officers from properly performing their duties.

Sponsorship Information Provided by Immigration Canada

Most respondents feel the information provided by immigration departments is extremely inadequate. In fact, the majority appear to have obtained very little information on the question of permanent residence, overall, and on a sponsorship undertaking, in particular, from immigration officers. Catherine explains:

Yes, they gave me a document on that, I think. We were given documentation, or sometimes we picked up pamphlets on our own. Nothing is given automatically, except that you can go in and see what relates to your case and just pick it up. But I don't remember them giving me anything related to sponsorship undertaking as such.

In response to the question about whether or not the immigration officer explained sponsorship undertaking, Elisabeth explains.

I think it was in their papers. After I read that, when I received my visa, I read it, but they never said anything at Immigration.

Louise explains that although the immigration officer was "very nice," she never explained her rights to her.

> *The woman who [greeted] me was very nice. She answered my questions. Except that in terms of the sponsorship, it was only three years...three and a half years later, when I met with a lawyer, that my rights were clearly explained to me. Then, I was in a position to make a decision. But before, I couldn't because I didn't understand what was involved, and what would happen to me after. Would I lose my visa? There were so many unanswered questions. I had no friends. He [my husband] couldn't give me any answers. I couldn't rely on him.*

It appears that immigration officers do provide some basic information about the characteristics of permanent residence. Judith explains.

> *They talked to me at immigration and they told me that as of today, Madam, you are free in Canada. You can live as you wish and try not to break the law.... Yes, they gave me a little information and I also asked my friends some questions and from what I remember, they told me that in Canada education is important, and that was true. They also told me that the government is prepared to help and that too is true, especially if you have children and if you're a woman. They told me I didn't have to pay for health care, and that was true. And that as long as you're a resident, the government provides everything in terms of health, and that was true. I asked them if you can leave Canada to go to any other country once you've got permanent residence, and they said yes, which was also true. And what other information did they provide? Actually, they answered every question correctly.*

It appears that obtaining the right information depends on asking the right questions. Unfortunately, during the early stages of landing, women are often uncertain about what questions to ask, particularly with regard to sponsorship. Some women, like Esther, came away with an accurate but very sketchy understanding of the impact of permanent residence and sponsorship on their rights.

> *I remember very well that they told me I'd...that I wouldn't have any problems staying in Canada because I was married to a Canadian and that the Canadian would sponsor me and that my rights entitled me to everything, except two things. The first was that I was not entitled to vote in general elections, which was not very important to me. The second, was that I could not go on welfare for 10 years. Since I had never received welfare, I didn't really mind.*

Others understood that their status as sponsored women subjugated them to their husband's authority. Judith explains her duty to obey and her status of dependence vis-à-vis her husband, based on what the immigration officer or officers told her.

> *Yes, in terms of sponsorship, they explained to me that for 10 years, I would remain the responsibility of my husband, and that there were things I couldn't do. For example, my husband.... Now, I call him the boss, or the leader. That was not the exact word they used. They said that for 10 years, I had to remain with my husband, my spouse. Your spouse will know everything about you. You cannot make any decisions without your spouse. For instance, you cannot leave the country, decide to move from Canada to live in another country, and your husband must provide absolutely everything. You cannot turn to the government for help for 10 years. The husband has signed papers saying that he will provide everything you need for 10 years. So your husband takes care of absolutely everything. That's what they explained to me, and I accepted.*

The question is, to what extent was Judith free to give her consent, since she had no other choice if she wished to remain with her children, and her husband? Esther explains.

> *I didn't ask for my husband to sponsor me. We had to. Otherwise, I couldn't stay. I would not have been able to stay. That was the process. My husband had to agree...I think it was for 10 years, right?*

The Husband's Control Over Immigration Procedures

The administrative process leading up to permanent residence may give some immigrant women a taste of their dependency on their husbands once the sponsorship undertaking takes effect. In fact, very often it is the husband who is the preferred contact for immigration officers and who plays a major role in the processing of the sponsorship application. This reality is particularly striking in the case of applications processed within Canada. While this phenomenon can be explained by a number of factors, it is important to recognize that some immigrant women do not speak English or French or are completely unfamiliar with the rules and inner workings of immigration. In fact, these factors explain women's sometimes total exclusion from the sponsorship process. According to Louise, her husband had total control over the permanent residence application process.

> *Even when I was there, because, you see, I waited for eight months [without doing anything] because he didn't want to bring me along and he kept saying it was he who was sponsoring me. He could do whatever he wanted and if he didn't feel like going to Immigration, he just didn't go.*

In many instances, women do not know what specific steps were taken by their husband, as Esther recounts.

> *I was with my two children. My husband was here, and we started the procedure right away. I think my husband had started the procedure. I think it was done when I arrived and we had to write a letter to Immigration in which my husband requested that I be accepted as an immigrant since we*

> *were married with children and I had come to join him, and also for humanitarian reasons. He asked that I be given landed immigrant status.*

Most women, like Louise, were not fully aware of the fact that they were entering into a relationship of dependence by endorsing the status of a sponsored woman, nor did they realize the extent to which this status would change their lives.

> *For me, sponsorship was nothing more than him asking for me to come. I didn't realize that I had to be under his responsibility. I didn't know that. It was only later that I realized.*

In most cases, it is only once they have been granted permanent residence and that sponsorship takes effect that women realize to what extent they depend on their husband. As Lucie attests:

> *For me, it was only the steps he took in order for me to come to Canada. I didn't realize that I would...well, that this would create a certain dependency and that he would be the one making all the decisions, that he'd be doing everything for me. Now, that I wasn't aware of.*

To conclude, it is essential to emphasize a wide range of situations of landing in Canada, and the particular vulnerability of women who apply for permanent residence through sponsorship once they are already in Canada. This process involves long delays that can, as we see in the following section, create or exacerbate the subordination of women in marriage. For women from Africa, the delays involved in spousal reunification are particularly long. In all cases, the lack of communication and accurate information about their rights prevent women from quickly assessing and taking charge of their situation. In fact, as in the case of Esther and Louise, the information provided to women seems to pertain more to their obligations than to their rights. The absence of accurate information—which can be exacerbated by husbands who exploit their intermediary position between the state and their wives—strips women of their ability to make decisions and take action.

2. WOMEN'S EXPERIENCES IN SPOUSAL AND FAMILY RELATIONS

What impact does sponsorship have on a woman's status within the family and the couple? Given the important role families play in a newcomer's ability to integrate—a fact recognized in the *Immigration Act*—this question is at the centre of the dynamics that influence the reality of sponsored women. This section is an in-depth examination of what can happen when women are sponsored by the husband. In fact, far from being a neutral process, sponsorship creates a dynamic that can exacerbate unequal relationships within couples.

Autonomy Versus Dependence

Immigration is not only arriving in a new country; it also means emigrating, and leaving behind a network of family and friends, as well as studies and a job. The women we interviewed spoke in great detail, often nostalgically, about their experiences. In reality, arriving in Canada means parting with a former life and, for many women, trading autonomy for an unfamiliar life of dependence which, to say the least, weighs heavily on the life of a sponsored woman.

An Independent Life Before Arriving in Canada

Employment

For many immigrant women, the transition is traumatic: leaving a job, abandoning a profession, losing a source of income to come to Canada and facing the harsh reality of a job market characterized, overtly or not, by systemic discrimination against Black women, women of colour, immigrant women and Francophone women. In fact, many of the women interviewed had well-established careers before arriving in Canada, and had gained diverse work experience. This is what Judith told us.

> *[In my country], I was a teacher. I taught for 10 years. I started in 1984 and I quit to come [here], so I used to be a teacher. I taught children in Grade 6, children aged 9, 10 and 11. That's right. I spent 10 years with them back home. All that, and I also used to fill in for people in the markets. Just in the markets, because I have a lot of friends who work there—I also did it sometimes because I like that kind of work.*

Lucie used to be a hairdresser and ran her own restaurant; Amira was a lab technician; Janice a nurse; Rachel was head of a department in a communications firm. Others, like Esther, had completed graduate studies, and some had even received a doctorate degree just before immigrating to Canada.

> *In my country, I was a teacher in a nursery school and I became a teacher when I was very young. I think I was 18. While I was working with small children, I received another degree. I wanted to be trained in something else. So, I started studying communications, public relations and advertising....*

> *Just before coming to Canada...for two years, I spent my time finishing my doctoral thesis and working in an institution of higher learning.*

Only some of the younger women who were students did not have jobs, but these women had their futures ahead of them and were planning to continue their studies in Canada. Sarah, for instance, arrived as a student. Many expressed a longing for their work in their countries of origin.

The jobs these women occupied allowed them to enjoy a certain degree of autonomy in terms of their spouses and families. In many cases, emigrating from their countries of origin meant an end to their careers or studies.[69] Without a work permit, many women are not free to work when they arrive in Canada. This is the case of women awaiting permanent residence. The waiting period is extremely difficult since it forces women to remain inactive and places them in a position of dependence vis-à-vis their husbands. This was Catherine's experience.

> *I lost two years. You want to work, you have skills, and you have a family. Especially in my case, because my husband was a student. He was working at the same time, which wasn't [easy]..... And, as a person, I'm a very active woman. I could have been helpful in some ways. I could go out and find a job, especially because they say you have the right, automatically, after the medical tests have been done and other things that could adversely affect your application have been verified; I think they should at least give their authorization. They give their authorization but it takes a long time because all of these inquiries take a long time. In the end, it takes three to six months and in the meantime you're left hanging. I was useless. I couldn't do anything.*

Thus, for many women, the migratory route means losing the professional recognition they enjoyed in their countries of origin, the hope of financial independence as well as positive social recognition. It also often entails becoming financially dependent on their husband.

The Importance of Women's Families and a Tight Support Network

In addition to the autonomy enjoyed prior to immigration, there is the help provided by family members in the country of origin. This is what Ingrid had to say about her relationship with her family, in contrast with her current situation.

> *Yes, [I had a family], we were very close. When you need something, they're always there. We weren't rich, but we stuck together. I have three children. In my country, I never had to look for a babysitter. Everyone was there to help. So it was a real shock. Everyone looks after their own little family, their husband, their children and their work.*

Danielle's economic independence allowed her to enjoy a relationship of mutual support with her family.

> *I had my brothers and sisters with me, with my husband and my children. I had two servants, a maid and a man who ironed my husband's clothes from time to time. I wasn't...I wasn't rich, but I wasn't poor. I could fulfill my needs. I was pretty independent. I took care of my mother, my brothers and my sisters with what I earned.*

Leaving family behind in the country of origin means abandoning a secure environment, even though the women we interviewed were prepared to come to Canada, marry and have a family. Some had the advantage of having been warned about the potential difficulties, particularly with regard to marital relations. Lucie describes her situation.

> *Well, I mean, for example, my mother. She wasn't sure. I mean, she asked me if I was sure that everything would work out, if I felt confident. She was scared, because I was young, and she was worried about me coming here all alone with a man, and she'd had some experience with men. But she didn't want to come right out and say: "I don't think you should go." She also didn't want to tell me to stay. She just wanted to steer me in the right direction, warn me that things could happen that I wouldn't like, and that I should be careful. When she told me all this, I just said: "Well, you're you and I'm me, so..."*

Lucie's mother's advice, based on experience, foretells the disappointment that many women feel when they arrive in Canada and realize the full extent of their dependence on their husbands.

> *Back home, things are different. You're independent, you've got your own business and life is different. You have family, you've got so many people around you, but here you're alone with your husband and children and you have to manage on your own. I found that hard.*

Other women, like Rachel, had only met their husbands a short time before arriving in Canada.

> *After [we met], I went home...and he came here and, well, we did not know each other for very long before we decided to get married. It was love at first sight, and then we.... He came to visit at Christmas and then I left at Easter and then we decided to get married. It was very quick.*

In Mathilde's case:

> *We corresponded regularly. It was good. So, really, I had accepted him during our correspondence, and then he introduced me to his family. I want you to be my wife, and this will be our home.*

These women had fallen in love, and corresponded with their fiancé or husband between visits. For some, the engagement period lasts for six months. The promise of a new life often

collides with the reality of isolation and economic dependence. For many, this dependence and isolation is compounded by unexpected violence.

The Reality of Dependence

Women's dependence on their husbands is, above all, financial in nature, as expressed by Janie.

> *I was dependent on my husband for every little thing. That was also very frustrating.*

Carole's comments show to what extent the material reality of life in Canada changed their rapport as a couple.

> *Financially, I was really dependent on him, but in my country I was autonomous. I had my own business. I didn't have to ask him for anything. It's not that he changed, but I would have preferred to have my own money, my own work. Yeah, I'd prefer that. But I'm still waiting for a job that will be a little better than the one I have now.*

Daily life and marital relations are made difficult by the fact that some women are simply unable to gain autonomy, particularly while waiting for permanent residence. Catherine explains.

> *In the meantime, you just have to wait. Here I am, powerless. I couldn't do anything. I could have avoided a lot of hardship. Family conflicts too, because when you're miserable, even the smallest thing gets on your nerves. This situation caused some difficult moments at home, some very difficult moments, and it also affected my child who had to live through the same stress.*

Not only do sponsored women depend on their husbands financially, but also in terms of their social integration. For instance, they must rely on their husbands' availability and goodwill for their first trips outside the home, and he may not have any consideration for the cultural shock of venturing out into a big unfamiliar city. Danielle explains.

> *You know, he took me to see the city, to get my bearings, on the second day after I had arrived. We took the streetcar and the subway. He said to me: "You know how to read, eh? You go this way. You get off here for that store, you go in and then you come home. You know how to get back?" That was it. Then I was on my own.*

For many women, marital relations seriously deteriorated once they arrived in Canada. From the outset, these women received no support from their husbands. Relationships of dependence are exacerbated by economic difficulties that weigh heavily on the relationship. Sarah explains.

> *My husband was under stress at work that he would take out on me, and it takes a year to get the immigration papers. So, for a year, you're at home twiddling your thumbs. He tells you straight out that you're a burden. And as the bills pile up, he makes it very clear that you can't stay. It's a lot of verbal abuse. You feel useless. You can't study and you can't work.*

Financial difficulties and problems of integration facing husbands who are immigrants themselves also have an impact on women. Esther recounts.

> *Our first concern was our severely reduced income. That was the first concern. Then, not having a job, that's hard when you're just sitting at home, and all you do is go from home to school, and back home again. That was the routine. At a certain point, I found that very hard.*

In general, sponsored women emphasized their feelings of dependence on their spouses and the resulting humiliation, as Sarah describes.

> *Sometimes, you feel humiliated by the person who sponsored you. It's as though you're at his beck and call. You're useless. You can't do anything. It's really frustrating.*

Indebtedness is just one mechanism of control employed by husbands who sponsor their wives. We have, therefore, attempted to understand the different forms of control exercised by spouses, since these forms can vary as the situation changes.

Various Forms of Control

Control refers to the husband's behaviour in preventing his wife from leading an autonomous life. Obviously, there is no clear-cut division between control and violence. Control is the abuse of power which can destroy a woman's autonomy and ability to act, just as much as some acts of physical violence, for instance. It is important, however, to make a distinction between violence and control insofar as legal repercussions and recourse to assistance and services differ.

Financial Control

The experiences of immigrant women in the job market, where they often occupy precarious part-time positions, if in fact they manage to find work at all, exacerbates their dependency on their husbands. In some cases, a newcomer's situation may create a new dynamic within the couple characterized by control and inequality. Clearly, this situation is very difficult for women, as Carole explains.

> *Being financially dependent on a husband before you can find a job, when you've got no money in your pocket, before you start working part time; waiting for someone to give you a few cents—that's what I found the hardest.*

Husbands may have complete control over the couple's income, as in the case of Mathilde.

> *I had no say. He controlled all the money. I arrived and I gave him the cheque. He took the cheque to the bank. He controlled everything. I didn't have anything that belonged to me, and he was controlling the money alone. I didn't like that.*

In some cases, the sponsor may refuse to give his wife money for her personal expenses, prevent her from working or even from leaving the house. Danielle's account is very revealing.

> *I'm telling you, I couldn't even buy a bottle of [nail] polish without asking his permission. I didn't have any pocket money. No one knew him in Canada. He didn't give me any money. Nothing.*

Some spouses appear to exploit the wife's lack of financial resources, in an attempt to control their comings and goings, as in the case of Louise.

> *No, I didn't have a coat. [In fact] I had money for a coat. I was prepared because I'd been told that coats are adapted to the cold climate here. So, I had my own money. But because he knows how things work, I gave him the money so that we could go out and buy a coat together. Well, he spent the money. And I spent the whole winter without a coat.... Yes, without a coat, and if I'd known that there were places where I could have found a coat.... He knew exactly what he was doing. I never left the house. I never left the house once in the winter. I stayed at home. He'd go out and lock the door behind him.*

Such economic dependence elevates the husband, conferring power on him that he would not necessarily have if his wife were not completely dependent on him, as in the case of Catherine.

> *It's as though he's giving you the moon. So the person who sponsors you becomes a kind of earthly god in your life.*

Situations in which the spouse uses his knowledge of the immigration system to exercise tighter control over his wife have been described above. This control can also be combined with his power over the couple's income, as in the case already described by Rachel whose husband put off paying the sums required to process her permanent residence application.

Social Control

The social life of sponsored women can also be tightly controlled by the husband, specifically opportunities for meeting friends and enrolling in language classes. Catherine explains.

> *He was annoyed because here he didn't want me to have any friends because he said they'd teach me certain things. My friends might tell me things I didn't know. So he cut all my ties with the outside world. No one could call me. I couldn't go out with friends. It was really hard.*

Even Lucie's visits and errands were controlled, in addition to her phone calls and, needless to say, the possibility of working outside the home.

> *I couldn't go out. If I went to the grocery store, he knew where I was going and he knew how much time it would take. He knew about what time I'd be back. That's right. Or if I went out...he'd come and pick me up. Me, alone, no way.... I tried when I was with him. After my X course, I said I'd try to find a part-time job or something like that, and go back to school, because I didn't want to stop there. But he said no. That's enough. No, I had to stay.... Because, in his mind, the more educated I am, the more I'd know. Which means that Monsieur would not be able to make all the rules. Yeah, he wouldn't be able to control me. And he wanted to maintain control.*

Control Exercised by In-Laws and the Cultural Community

Before taking a closer look at how the control mechanisms are at work in the lives of the women we interviewed, it is also important to note that a husband's control is sometimes reinforced by members of his family or by the cultural community.

Omnipresent in-laws who back the husband in spousal relations contribute to fostering unequal relationships and reinforce female subjugation to marital authority. Some women are expected to perform domestic work or to submit to criticism from a family they did not know before coming to Canada. Mathilde describes her situation.

> *He's the one who married me, not his family. He marries me. But preparing [meals] for everyone, no. I don't have a lot of energy for that. That's it. For my family, for him, okay, for my children, yes, and for guests. But not for everyone and maybe even the next door neighbour, no.... I want to go out. I want to work like everyone else. Even if I work, I can't prepare [meals] for everyone.*

Or Rachel, who describes her situation.

> *[With my in-laws], there's the notion of man and wife. The wife is supposed to stay home and accept all the conditions imposed by the man. I find this situation very hard in terms of my mother-in-law who's always criticizing me for this and that.*

While in-laws play an important role in welcoming the newcomer, as in the case of Esther, the hope of building a new and harmonious family is often dashed. Mathilde describes the problems she encountered because her marriage was controlled directly by her husband's extended family.

> *I said to myself, after all, I don't have any family here. So it was his family that would become my family. But they tried to control me as if I was their daughter, and there was no closeness between them and me. We'd get together, but there was never any conversation. But I still saw them a lot.*

In Mathilde's case, her in-laws' control over her life was directly linked to her status.

> *I didn't know I had rights as a landed immigrant. I thought he had the power to send me back home since he had sponsored me, despite the steps I had taken. That's how his family instilled fear in me.*

Extended family structures—particularly in African families where important decisions must be approved by parents, and aunts and uncles have a strong presence—can either play a supportive or a destructive role. In a foreign environment, conflict resolution is often achieved at the expense of the woman who is confronted by the hostility of individuals whom she would normally and culturally have considered to be close family members.

We also gathered statements from women who did not feel comfortable talking to members of their community about the abuse they experienced, although this was not the case for all the women we interviewed. Sarah examines the issue of conjugal violence in terms of the cultural community.

> *It's really a problem. You see, there isn't a single form of abuse that they consider to be abuse. If someone says mean things to you, you're overreacting. They tell you to be grateful to the man, because it's thanks to him that you're in Canada. [In my country], even if your husband breaks your arm, you should still stay with him. It's not grounds for divorce. No, divorce is only legitimate if the woman commits adultery. Then, the husband takes his things, your things and throws you out. If he's not accusing you of anything, then there's no reason for a divorce.*

Pressure from the cultural community can create an obstacle for women looking for shelter. Women feel they cannot discuss their problems which would mean betraying the secrecy between man and wife. In keeping with "tradition"— in which dirty secrets must stay within the family and conjugal violence remains a taboo topic—women are silenced by fear and their sense of decency. In fact, denouncing abuse could serve to ostracize women from the community, merely compounding their isolation. Lucie explains.

> *I mean, everyone points a finger at me. How that woman left her husband and brought shame upon him. She had no right.... They say: "These women, when they come here, they get one taste of the West and they think they can do whatever they want." That's how they see it, they don't see the harm the other person caused. They don't care about that. They think that because you're a woman you have nothing to say.*

Although the two preceding accounts could also apply to women who are victims of violence, whether they are immigrants or not, sponsored or not, what characterizes the situation of sponsored women is the psychological burden of feeling indebted to their husband's for their lives in Canada. In fact, in our opinion, this is the defining feature in the dynamic between sponsored women and their husbands.

Psychological Control and the "Sponsorship Debt"

The testimonies reveal an exorbitant "sponsorship debt," so to speak, which potentially burdens women for the rest of their lives. As such, sponsorship is used as a psychological tool to manipulate women. In exchange for the "right to come to Canada," the husband demands "eternal recognition" from his wife, as Catherine describes.

> *But he was mean to me about the papers. He gave me the papers, not to mention everything else in Canada. That's how he puts it. He gave me the papers to come to Canada. He gave me the right to Canada. I said: "But I have rights elsewhere!" But, when men start talking and criticizing, the more you say, the more aggressive and condescending they become. And I have children, so sometimes I [keep quiet].*

This debt to the sponsor is, without a doubt, the most salient aspect mentioned by the women interviewed. As Lucie confides, her husband never let her forget this debt.

> *I brought you here. It's thanks to me. He said I had to listen to what he said because if he hadn't brought me here, would I have the friends I'd made? Or, if he hadn't brought me here, would I be taking my X course.... In the end, I got really fed up with this.*

These feelings of indebtedness can persist even after the sponsored woman has secured a job and is financially independent. Catherine describes her situation.

> *Yes, I work, I'm independent, but like I said, I don't feel indebted to myself, I feel indebted to him. The person who sponsored you. So it's him, everything I have is thanks to him. For life, everything I have. My education, my work everything. Whenever we fight, this is what always comes up.*

The sponsor often refers to this debt in order to threaten his wife with all kinds of reprisals if she tries to resist his authority. For instance, he may threaten to not provide for her essential needs, force her to sponsor certain members of his family, or simply withdraw his sponsorship which would result in her immediate expulsion from Canada, if she does not yet have her permanent residency. This is how Lucie describes this blatant threat.

> *No, no, because that [sponsorship] is what the person always uses against you. Let's say he does something and you complain, he'll say: "Look, I brought you here. It's thanks to me that you're here. I do everything for you and I can cut you off if I want." It's always a question of blackmail because the way you're sponsored, it's always blackmail and you're stuck because you've got nowhere else to go, really.*

This attitude raises doubts among women who have often been conditioned to recognize the husband's absolute power. Some, like Catherine, feel that these doubts set the stage for the husband's increasing control over his wife.

> *Especially when you become...you stay, you're at the person's mercy. Sometimes you say to yourself: "You'd never behave like this [if I wasn't waiting for status]," but sometimes you start to feel guilty and you say: "Well, after all, he's right. You're there, waiting around, and you depend entirely on him."*

Although her husband's choice of words may be a little more subtle in her presence, Judith "got wind" of his threatening words, which only adds to her feelings of insecurity and the realization that she has no control over her situation even though she knows her rights. She understands the warning, even though her husband doesn't threaten her directly.

> *No, he doesn't say it often, but I do. I say: "Because you sponsored me, that's why I have to do it." That's why I have to accept this or that. But he doesn't say that. Rarely, but not all the time. Someone told me he said that, but he didn't say it to my face...but I know he said he could call Immigration to say that he sponsored me and have me deported [back to my country]. Luckily, the person who told me that said: "What? No way, she's a resident. Soon she'll be Canadian. That's not true, sir. That is not true."*

The "sponsorship debt" contract by the wife serves as a pretext for blackmail. Louise is separated from her husband who demanded that she reimburse her debt to him by sponsoring his nephew, which she refused to do, based on her lawyer's advice.

> *I left with only my bag and whenever I went back to get something, he'd always talk to me, humiliate me. Once he told me not to forget that he had sponsored me and that I had to sign a document because I was the one who had worked before. I was the one who had any resources. I had to sign the document for him, so that he could send for his nephew. He had to send for some people and I was going to sign. And if I didn't sign, he'd contest the divorce and everything.*

Thus, even after women are separated from their husband's, sponsorship continues to be a tool for blackmail.

The Threat of Sponsorship Withdrawal and Expulsion

The threat of withdrawing sponsorship is often exploited, particularly in the case of women awaiting status. The threat of expulsion is yet another weapon wielded by husbands seeking to reinforce spousal subjugation.

Women are painfully aware of their vulnerability during the waiting period for permanent residence, when spouses can still withdraw sponsorship.

> *You see, I waited eight months in a precarious situation because he didn't want to take me [to Immigration] and he said it was he who had sponsored me. He was the one who had the right to do anything and that he could*

decide not to go to Immigration. And even if we wanted to, he was going to send me back [to my country].

After eight months, the couple finally went to the immigration office. This is how the woman describes the scene.

Because I explained the whole thing to the immigration officer, how I lived back there, how I came to Canada, and she was very nice. She reassured me and told me that now I was here and that everything was fine, and that as soon as I had the papers, there'd be no more danger. But he was telling me the opposite. He said that he still had the right to send me back because he had sponsored me. He had rights over me.

In fact, permanent residence status does not protect women from the threat of withdrawing sponsorship since many wives are unaware of the rights associated with their status. Sponsorship is the tool men use to continue to exert control over their wives, even when these women are residents, as in the case of Danielle.

Once, once he even said to me, after I'd received my residency, he said to me: "Don't forget that you're still under my sponsorship and I can decide whatever I want." But if you were to meet him, he seems like such a nice guy (she laughs bitterly).

Some men use blackmail even though they know full well that they cannot deport their wife, and they continue to do so as long as women remain unaware of their rights. Louise explains.

I think it was blackmail. I'm sure he knew he couldn't do it, but he kept blackmailing me because he knew I didn't know it. As soon as I knew that he couldn't do anything, he stopped blackmailing me.

Since the withdrawal of sponsorship before landing results in removal from Canada, the threat of expulsion is very real and involves serious repercussions. This threat reduces women to silence and forces them to endure their husbands' abuse of power, as Danielle tells the interviewer.

Q: Did you go out and contact people you knew for help?

A: No, especially in the beginning, you don't talk, you can't talk because you're afraid of the consequences.

Q: What kinds of consequences?

A: Well, he can threaten to withdraw his application at Immigration and throw you out.

Q: Did he do that to you?

A: No, he didn't do it, but that's because I didn't give him reason to do it. So you endure the situation. And when people ask you how things are going, you say everything's fine even though they're not (laughter).

Women feel so threatened by the prospect of deportation that they feel powerless to denounce husbands for the violent acts they commit in the home. Louise explains.

There were blows to the head, kicks, punches, and that was the first time he beat me. I screamed, but I didn't call the police. I had bruises all over my body.... He beat me again. I had bruises and bumps. He left. I stay in the house. Ten or fifteen minutes later, he rang the doorbell downstairs, but I didn't answer because I didn't know it was him. I was embarrassed, I didn't want anyone to know, besides since he'd sponsored me, he could have me deported.

The threat of deportation is even more serious when returning to the country of origin can cause serious harm to the woman.[70] For some women, the political, economic, social and religious situation in the country of origin means that deportation is tantamount to a death sentence.

And he could do whatever he wanted, anything at all. Even if I didn't like it, and despite the fact that I'm a very outspoken person. But if I wasn't happy, it got to the point where, yes, I'll have you sent back. I'll have you sent back [to your country] and I'll make sure you disappear. And it's true. He had power. He has power. He knows quite a few people in my government and he could do just that. It's easy. It works. And I've seen cases in my country. I've seen people who were killed, people who were killed and the whole thing was covered up. I mean, nobody says a word.

The threat of deportation or withdrawal of sponsorship can also mean that a mother is separated from her children who are Canadian by birth and whose father is a permanent resident or Canadian citizen. In Rachel's case, returning to the country of origin with her child would be considered abduction. The threat of withholding the child is, therefore, used to control the mother, as in the case of Catherine. For Lucie, the fear of losing her children is very real.

I can't [return to my country]. Either I endure the hell I'm living or if I leave him, I can't go back to my country, because in my country.... Today, he knows that I left and everyone in my country knows what I did. So now, what I'm trying to do right now, is to get my daughter back.

The threat of deportation or withdrawal of sponsorship sets the future tone for the relationship and, in some cases, foretells conjugal violence. Sarah explains.

> *If you give him a hard time, what does he do? He withdraws the residence and then you can imagine the consequences.... You're better off keeping your month shut, it's a lot easier than when you start to talk because now [you] can't. Then, when you try to assert yourself, he's used to an easy prey, he can talk, he can talk over you. You're not allowed to speak your mind, you know.*

Violence

When financial and social control mechanisms are not enough to ensure the complete subjugation of the wife, when threats of withdrawing sponsorship and deportation are no longer enough, some spouses resort to physical violence. In fact, out of the 16 women interviewed, eight admitted that they were victims of conjugal violence. They described incidents of physical violence very similar to those documented in the context of violence against women in general.

For one woman, the violence began as soon as she arrived in Canada, during an outburst of jealousy by her husband. As for Rachel, her spouse would not tolerate an untidy house.

> *Well, in the beginning, I was very depressed because I had nothing, I didn't have anyone. And he was obsessed with having a clean house. And I think it was a reaction to that. Because he was obsessed with housework, I wouldn't do it. And that's why things turned sour, and I wound up with a black eye, without meaning to.*

Another woman was beaten because she answered back when her husband insulted her. Some husbands look for any excuse to justify their abuse. For Mathilde, the violence began when she was pregnant.

> *It had just started, we were just married.... All that, and I was five months pregnant and that created problems, and my husband started beating me during my pregnancy. I thought I was going to die!*

Violence is expressed through blows, intimidation and insults. Psychological damage is often more devastating than physical violence, as Rachel explains.

> *He's not violent with me, instead of throwing something in my face, he'll throw it on the floor.... He's done that once since my baby was born. It makes me so angry...I love him all the time, but I don't feel it's reciprocal. It's reciprocal, but because he feels he has power.... You know, you feel like he treats you, I mean, excuse the expression, I know it's impolite, but like shit, you know.*

Violence is even more painful when the children are witness to it. This is what happened to Mathilde.

A: I asked him to stop insulting me. I don't want him to insult me or my children.

Q: When you say he insulted you, what did he say?

A: I can't repeat it, but they were cruel and dirty insults. So, I can't talk about it. If there's a problem, I don't want to be insulted and I don't want my children to be insulted either.

In this last segment of our conversation with Mathilde, one senses that the wounds have still not healed. The only way she can describe the verbal violence she endured is with adjectives like "dirty" and "cruel"—one can only imagine what these adjectives suggest. The respondents did not report any sexual abuse in response to one of our questions to this effect, most likely due to their sense of decency. Mathilde's testimony, however, suggests that her husband's words may have involved insults of a sexual nature.

We could relate many violent incidents reported by the women interviewed. Suffice it say that the violence and control sponsored women may be subjected to at the hands of their husbands take on many forms. Some women are beaten, threatened with objects, insulted, abused, diminished or humiliated in an attempt to make them feel inferior. Others are kept in their homes under lock and key or isolated from people who could help them break their isolation. Many are kept ignorant of their rights in Canada and most sponsored women are constantly reminded of their "sponsorship debt," which forces them to express unending gratitude to their spouse. Many are threatened with deportation or the withdrawal of sponsorship, whether they are waiting for permanent residence or have already obtained their status. These threats serve to trap them in abusive relationships.

The effects of this type of control and violence among sponsored women are varied. Psychological distress and depression are very common. Two of the respondents said they tried to commit suicide, while others sought psychological help for depression. This is how Catherine describes the effects of her distress.

When you don't have anyone, no family to talk to, and you find yourself in this situation, I used to cry night and day. I was depressed.... Now, when I think about it, it was really hard. I started to get pimples all over my face. It was really stressful. I was losing my hair. I just wanted to end it all. No, it was awful.... The apartment was unliveable. He had ransacked the whole place, broken everything.

Despite the reality of conjugal violence, it is very difficult for women to abandon their marriages. Children and patriarchal socialization, which makes divorce shameful and places the onus on the wife to preserve harmony within the family, make it hard for women to give up on the marriage. In order to get out of an abusive relationship, women must break their isolation and gain access to outside assistance.

Isolation

We have seen how sponsored women's dependence on their husbands makes them vulnerable and may cut them off from social interaction that could help ensure their social integration. But leaving an abusive husband can also lead to isolation. Catherine's description of her isolation is particularly poignant even though she is currently a student.

> *I don't know anyone. I'm studying now, but I don't know anyone. It's not a good thing. I don't feel...I don't know, I haven't really made any real friends. No. That's the biggest problem for me in Canada because.... Well, I go to university. I'm currently attending classes. There are people who call me. We have assignments and things like that. We call each other, but once classes are over, you find yourself at home alone. Sometimes, you pick up the phone to make sure it's still working.*

Some of the women interviewed compared their isolation with the shock of arriving in Canada. Elisabeth explains.

> *You don't even know your neighbours. I found that a bit hard, because every time my husband went to work, I was alone at home because my aunt worked too...and I was all alone.*

Unhappiness due to a cold and dominating husband exacerbates these feelings of isolation, as Judith describes.

> *The last few years have been miserable. I cry all the time. I'm pregnant and I'm in school. I don't have anyone. My parents are [back home] and my husband and I don't get along at home, and he's really hard on me.*

For women who are victims of violence, isolation due to an abusive marriage creates a context for further abuse. Isolation is exacerbated by various factors such as a lack of information, the absence of status or an unfamiliar situation. Louise was literally cut off from the world when she came to Canada.

> *I think sponsorship had a lot to do with it, because he had me in the palm of his hand. As soon as I arrived, since I spent all my days holed up all alone in the apartment, I asked him for the phone number for the fire department and the police in case there was an emergency. He told me that didn't exist. I think that if I hadn't been sponsored and if I could have come on my own, things would have been different because I would have been informed. Immigration would have told me. When you arrive, this is what you do. You arrive at such and such place, and I would have been informed. But I came through sponsorship and I didn't have any information. He didn't tell me anything. I didn't like that at all. I don't like this system.*

Conclusion

Clearly, the women we interviewed for this report were not all involved in oppressive relationships with their families and spouses. However, the purpose of this section is to highlight the specific problems of women who are in particularly controlling and violent relationships. These relationships reveal problems that can be attributed to the sponsorship process.

From the outset, the sponsorship of women creates a dependence on the spouse, even for those who are "lucky" enough to have a supportive husband. Sponsorship exposes women to all kinds of abuse from their husbands, insofar as the process strips women of the basic tools they need to preserve their autonomy. This is especially the case for women who apply for residence from within Canada and must endure long waiting periods to obtain status, during which they are not permitted to work or receive services. Conjugal violence usually occurs in the early months when the threat of deportation or the withdrawal of sponsorship is most present. By assigning the role of guarantor to the husband, the state gives the spouse the opportunity to impose his authority on a "silver platter," as one of the women interviewed explains. The rules governing sponsorship, contained in the *Immigration Act*, contribute to the inequalities in social relationships between men and women and impede the autonomy of sponsored women. Sarah explains.

> *This sponsorship business should be banned because it gives power to people who are already macho to begin with, you know, it's really giving men power.... They're macho and you give them even more power, it's like giving them a weapon to hurt you.*

We must recognize that while some men are committed to ensuring that their wife integrates into society, there are just as many cases in which the husband's control over his spouse's finances, social life and employment possibilities contradict the sponsor's obligation to fulfill the material needs of his wife. If sponsors fail to honour their obligations, women are forced to endure various forms of suffering, including isolation and violence.

We are convinced that it is, to a large extent, the status of these women as sponsored immigrants, their ignorance of their rights and the dynamic specific to all cases of conjugal violence, that allow us to understand both their difficulties leaving abusive relationships and the strategies they can employ to free themselves. Indeed, it is not always easy to distinguish between the "classic" dynamic of violence, the dynamic exacerbated by sponsorship and the one that results from women's difficulties in integrating. Louise's experience shows how easily these lines become blurred.

> *Yes, he blackmailed me all the time. That was a big problem. He was always blackmailing me. I couldn't work. I couldn't go to school. He found that hard. I found it hard because when I was back home, I was independent. I managed on my own. I worked and there, when you find yourself in a situation like that, he was.... He didn't give me anything. So, there I was with nothing, what could I do? I had to wait for everything. I needed a lot of*

> *things. I'm a woman.... No, I couldn't do anything. I couldn't talk. He'd say: "You're here because I sponsored you. That's it. If you don't do what I say, you're going back." It's true that Immigration told me I had all the papers and that nothing could happen to me, but I didn't really understand what that meant, and since he was here before me, I figured he was better informed than me, so what he said was true.*

Women who are in abusive relationships often attribute their experiences to bad luck or to their husbands' violent nature. Those who are in harmonious relationships with their husbands consider themselves "lucky" to have met a nice man. What is apparent, however, is that sponsorship is one of the levers some men use to further abuse their wives, to exert greater control over their lives or to silence them. Sponsorship provisions under the *Immigration Act* provide these men with an effective tool to perpetuate abuse. Rachel and Danielle's accounts clearly confirm this.

> *I feel like I'm completely dependent on the authorities and on my husband, in the end, even if he's a nice guy and all, I mean. It could very well happen, I don't know, just for the money and all that, I am dependent on my husband.*

> *Everything is interconnected, because when someone has all the power, someone has the power to decide the fate of another person, that person really has to be good not to abuse.... In my country, he didn't have a chance to make me feel dependent on him and since he was given the chance on a silver platter, he abused it.*

3. THE CONTEXT OF SPONSORSHIP: DIFFICULTIES IN SOCIAL AND ECONOMIC INTEGRATION

While sponsorship particularly affects women's ability to be financially independent and, in some cases, affects the quality of family and marital relations, we should not forget that sponsorship takes place within a social and economic context that generates isolation and economic difficulties. It therefore seemed important to us to reconstruct this aspect of women's experiences since these difficulties can dominate their lives. We also wonder whether the impact of sponsored women's financial circumstances might be the cause of additional difficulties when they wish to regain their financial independence—their only guaranteed way out of the vicious circle of violence and a husband's control. This chapter is therefore devoted to the experience of these women in relation to these issues.

Culture Shock and Social Integration

Women's immigration experiences are part of a lifelong experience. When they arrived in Canada, our respondents already possessed some assets and knowledge, a culture and a personal identity that shaped their perception of their experience in Canada. Immigration was a fragment of their life, a fragment that provided an orientation that was sometimes unexpected and negative in their personal development. However, there was more to these women than this phase in their life. Failing to recognize their capacity to surmount difficulties that sometimes seemed insurmountable would be to ignore their strength and their ability to act.

As we saw earlier, the women we met in the course of this study had a life plan they were trying to realize through their migration plans. Certainly, for some, it was their marriage that determined that they would come to Canada, directly from their country of origin. Some were already living in a third country when they arrived and this experience certainly affected the way in which their adaptation took place. Others acknowledged that the decision to immigrate was made more reluctantly. They had dreams and thought they would make a life for themselves, have a family and adapt. Carole explains.

> *Well, when I arrived here, in a foreign country, I had expectations, like everyone. It's a country where everything is good. We'll find work easily. Everything was going well, but I found that it was really different, difficult. It is difficult to find work. And I found it very difficult from that point of view.*

The "honeymoon" between the newly arrived immigrant and Canada is fairly short-lived. The shock of reality manifested itself rather quickly. Catherine explains.

> *Yes, I was attracted to Canada. When I arrived for the first time in Montréal, seeing the country all white, in a snowstorm, I was amazed and then.... I found it beautiful at first, but waiting [for permanent residency] I became less interested in the idea of immigrating as such.*

The difficulties encountered and the attendant disappointments, as Rachel reminds us, are all the more poignant when we compare them to the projects these women had envisaged.

> *I thought I would arrive, then start working, then begin to study.... In the end, you know, I depended on myself; I thought it would be different, because now there are lots of problems.*

She adds that, in a way, sponsorship shattered her dreams of a new life.

> *Well, you know, when you say you are going to get married, there is always this idea of a contract that will create discrimination within a couple, well I feel the same way about sponsorship.*

Although this aspect was not discussed in depth because it fell outside of the objectives of our analysis, the experiences of these women took place within a process that is specific to emigration, a process called "culture shock." This phenomenon is not restricted to the few months around their time of arrival; it can last for years, each time that regrets about exile and feelings about the strangeness of a host society come to the fore. When we discuss the isolation of sponsored women, particularly those who are victims of violence, we must factor this "culture shock" into the experiences they recount. For Janie, this shock was experienced as a reaction to the strangeness of the climate, but especially, to the impossibility of speaking English.

> *The first six months were.... Like I had the impression of being on another planet anyway because I had the handicap of not being able to speak any English whatsoever.*

Culture shock was also experienced through the geography of the surrounding area in both Judith and Carole's cases.

> *Even when I went into my house, I said: "Where is my house? Where will I go?" And that's it. Because (in my country) we are used to lower houses, but here there are huge buildings and because I lived in an apartment and it was really difficult to recognize my house and my apartment for the first week. But after, it started to come to me...*
>
> *But once, there, I said okay, since he is at work I am going to go out by myself. Now he had told me which bus to take, how to do all that. I took the bus and I left, but when I came back I had problems because I had taken a bus that was going to X. I found myself somewhere I didn't even know. I got out. I didn't even know that I could use the same ticket for another bus and I threw my ticket away. Then I didn't know what bus to take and I had to walk all the way home and it was a long way. On top of all that, there was a snowstorm and I wasn't warmly dressed. I was wearing a light coat and some shoes. I didn't even have boots since the sun was out and I couldn't tell that it was very cold.*

The sociability of Canadians was perceived as being very different by many respondents and contributed to their isolation as newly arrived immigrants. Esther and Elisabeth:

> *But I find that here people are very different than they are in my country. People are not as warm. People are on their guards in a way. They aren't...they don't want to open up to other people. People are kind of closed.*

> *Well, when I arrived, the problem was that it was cold and I saw that we were a little isolated, as I didn't know many people. I only had my aunt, my husband and his friends. And then okay, you see, life here isn't like it is where I come from. I also had friends, Quebecois, that were friends with my husband. Right, so we went to the same church. As far as they were concerned, you were at home. You don't even know the man who is your neighbour. You don't even know the woman who is your neighbour. I found that a little hard because every time my husband went to work, I was alone at home since my aunt also went to work. She also worked. I was all alone.*

The coldness of relations with Canadians affected these women's ability to re-create a social network solid enough to be viable. Often, friendships were formed within a network of immigrant women. For example, for both Rachel and Esther:

> *It is difficult to make friends with Canadians, you know. I don't know, I tried. And I had one, then, well it is difficult. They won't call you. And okay, the only friends that I had, well, you know, they called me and they tried to communicate with me. I don't know. Maybe it's because we can identify with each other as immigrant women. I don't know.*

> *At one point [when] we moved into the building, I had much warmer neighbours and we started to...talk with them and they were immigrants too, a woman immigrant, a Greek woman and then we started to form a friendship, to be friends.*

The theme of negative attitudes toward immigrants, in particular immigrants of colour, was raised a number of times (however, it should be noted that the two preceding remarks were made by White women). Often, the coldness of social relations seems inexplicable. Catherine is perplexed.

> *Sometimes you come across one of your colleagues. You think that the person is going to say hello. They just pass by. They don't even look at you. Once, I even asked a Quebecois about this. I said, but why are you like this? After class you see people and it is as though you'd never laid eyes on each other. He told me it was "because the person does not want to stay in contact." So, that's it.*

The venues for integration into Canadian social life exist but, according to the respondents, they are few and far between. Church seemed to play a role for some; for others, parent school committees seem to be a place for socialization. Professional training programs were a good place for establishing "links." One woman, for example, through her church, got involved with an assistance network for student refugees in the region of Africa where she came from.

Immigrating to a country means leaving familiar and familial ties behind. Moreover, for many women it means rebuilding a life with a husband (and his family) who they knew before they arrived in Canada, but who remains a stranger in a fundamental way. Here is Judith's assessment.

> *I don't know about other people, but when I lived with my brothers and my sisters, my mom and dad, I found that I was really much more confident. But here I don't live with my parents and I should have the same confidence living with my husband's parents; but it's different because it is not my mom and dad, my brother, my sister. It really wasn't the same thing at all. And, like at home, I had no fear. For example [if I wanted to invite a friend over] I knew there would be no problem bringing someone back to the house. But here, you live with a husband, a husband who is not a brother, who is not a sister or a relative and to bring a friend [home], you have to stop and think what will my husband say? Will he accept my friend? Will he accept the relationship for what it is? You are not at all comfortable.*

Another respondent summed up her life in Canada.

> *Yes, I did gain by it in the end. [I went to] school and I learned many things. And I learned to get along on my own. Fend for myself. It isn't like at home. [Over there] you can count on your sister, your family. Here it is everyone for themselves.*

Sarah shared the same nostalgia, even though she came from a country that was very different.

> *Oh yes! It takes a lot of courage. You really have to give it your all. You see back home, in Africa, when foreigners arrive, we welcome them like kings, they get everything easily, we roll out the red carpet, whereas here you have to fight to carve out a place for yourself...and with the fast pace of life, we have no time to spend on other people's problems. People are in a hurry...*

She sums up.

> *Back there [in my country], family ties are very close and no, there was no stress. It was in Canada that I learned the word "stress."*

The shock of immigration engenders solitude and nostalgia, and often remains a source of hidden suffering in everyday activities. For Carole, adaptations had to take place, particularly in the way children are raised.

> *...because the children come here and they really want to live the same way people live here. And for us it is difficult because we are stricter than that. We raise them in a stricter way [in my country] and once we were here, really the culture was different. Everything is different. Back home, they have no choice but to obey, but here, it is as though children obey less, or that they are not as good at obeying their parents.*

The integration of women immigrants does not take place exclusively through the thematic framework of sponsorship established by this study. However, sponsorship does constrain the experience of emigration and locks women into patriarchal power relationships that imprison them and make them doubt their decision. Lucie explains.

> *I hope, I hope, but I am in a situation that is really not very easy. Many problems, many things in my head at the same time and it is really very stressful. Sometimes I really want to give it all up. There are times that.... There are even times that I say like why did I accept to come to Canada? Maybe if I had stayed at home I wouldn't have these problems today.*

Unstable and Part-Time Jobs

The difficulty of finding and keeping a job shapes the experience of immigration as much, if not more than the difficulties of social integration. Of the 16 women who participated in this study, nine worked outside the home, five were full-time homemakers and two were students. Although a small minority of our respondents currently hold relatively stable jobs, as educational consultants or program directors in the public service, several women experienced a downward shift in their professional status because they could not find a job in their area of expertise. Most of the respondents either were not working or had unstable, part-time work. Carole describes her situation.

> *I work part time and I would like to find something better, but it isn't easy to find work these days. I only have work in offices, cleaning, and I haven't found anything else.*

Judith only succeeded in finding one job over a period of four years. She was a cleaning woman.

> *I went to work in a house, in a...for example an office where they cleaned. That was all. In four years I have only had one job and since that time I haven't found anything.*

Respondents were often contract workers and only rarely had job security, social benefits and the other benefits associated with "good" jobs. Esther explains.

> *The only difficulty is that it is always contract work and I have a contract to work from September to December, for example. After that, I have to...if I have another contract starting in January it's alright until April and when it is vacation time, I have no insurance, no income.*

Several women did not succeed in finding work, although they had made a great deal of effort to do so. This was the case for Judith.

> *Of course I would like to find one [a job] because being out of work doesn't help anything. Since the children, I have the day-care centre, where I can take them. That way, I could find a job outside of the home. It doesn't bother me. I am always available for the house and all. Getting out to make some money outside the home would be good.... No, since 1995 I've been going to school and I work with the children at home and [go to] school [and] since then I haven't found any work. Now I'm looking. It's been a long time, but unfortunately, I haven't found anything yet.*

Sometimes, some employers would make demands that the respondents could not meet, as in Lucie's case. Lucie is a hairdresser.

> *At present, I have received a work permit, but it is pretty hard right now. It is like when you have a chance, you have to take advantage of it and when you fail, then...it's the market.... It's true that there are a lot of hair dressing salons, but there are many more that demand that you have a clientele. There are salons that also ask you to rent your chair, but to rent a chair, you need a clientele.*

The Effects of Exclusion from the Job Market

In reality, many immigrant women find themselves excluded from the job market. This exclusion has several consequences. First, it constrains women to living in poverty, where the smallest expenses are scrutinized. Amira recounts.

> *...and I wouldn't go overboard with spending either. So, my husband works, but anyway I manage the budget so we don't spend too much, so we can live well without asking for help. And, for example, for the baby, we didn't buy really new things. Everything I bought was second-hand because it's very, very expensive. And clothes, I exchange with friends. They give me their clothing, the children's clothes, and I give them the baby's clothes. We exchange clothes. So that helps us a little so we don't spend too much money.*

As Amira explained, her husband had to hold down two jobs in order to meet the family's needs. This situation was very hard on her husband's health.

> *And so, he has a very, very hard job. And he wasn't used to the kind of job he was doing, but he did it for me, to get my papers. He worked 12 hours*

> *without a break, no lunch. All the time, he had to be behind the machine. Always behind the machine. What's more, he always had stomach problems because of that.*

The exclusion of women from the job market means that it has been more difficult for some respondents to integrate into society in Ontario. Catherine explains.

> *I felt as though something was missing, all the same. Yes I had that feeling. For example, you went out, you saw everybody, they were moving around, going to work, they were doing what they wanted to do. You wanted to feel like you were an active participant in society, but there was a barrier. To be frank, it is as though I felt I was not equal there...because I am a very motivated person, I like to move and I didn't have that barrier before. I had the impression that the world was passing me by.*

For women who had always been active in their country of origin, the fact that they were not working exacerbated their dependency on their husbands and could even engender a profound sense of helplessness. Rachel explains.

> *At first I went through fits of depression because I couldn't cope. I mean, you want to buy yourself something and you have to have the money, you have to ask for the money to get it from someone. When you earn your own money it's much easier... I'm not unhappy. Furthermore, I have everything I want, but it has to do with me. I have the impression I have to ask. And then, on top of that I don't drive. So you can imagine what it's like because even to do the shopping I have to ask [my husband] and then he doesn't want to go. So I am completely dependent on that, you know.*

Respondents were also confronted with other major barriers, namely language and systemic racial discrimination, as we see in the following pages.

Language Barriers

According to some of the respondents, language and, more specifically, the fact that they did not speak English in Ontario, remained the greatest barrier to their integration into the job market. As Judith says:

> *I can say that the only barrier is simply that I do not speak English. I always say that if I spoke English, if I knew how to speak English, I would have no barriers at all. I always say that. Only not speaking English remains a barrier for me.*

Mathilde also thinks that not speaking English constitutes a major obstacle to her integration, particularly in the area of employment.

I could not look for work right away because of the language, I had to learn the English language first.

In a way, women who do not speak English in Ontario find themselves in the same situation as many other immigrant women who speak neither English nor French on arriving in Canada. French is only used as a language of work in some organizations that offer services to Francophones or in some educational institutions. Everywhere else, the language of work is English, which demands a level of English/French bilingualism that these women did not possess, at least not in the first years when they were settling in the country. In some cases, respondents were refused work but were not sure about the reasons they didn't get the work: was it because they did not speak English or because they were Black or immigrants? After questioning herself at length on the subject, Judith concluded that she was being turned down for jobs because she did not speak English very well.

For example, I filled out applications and I was told that I would be called and I was never called. I don't know why. Was it because I am Black? Was it because I am an immigrant? Was it because I don't speak English? As far as I am concerned, that was the only reason. It was because I don't speak English and usually people are looking for Anglophone or bilingual employees. I think that's the only reason. There are jobs I know I can do. And then, like, at the interview they asked me questions in English or in French and since I know that I don't speak English very well I say that it was because I don't speak English, that's why I didn't get the job.

Sometimes, our respondents are treated in a curt or impolite manner by some intolerant Anglophones, as was the case with Janie.

I think that as a Francophone I have a hard time...especially when I call to set up appointments for customers and I hear: "I don't understand. What do you say?" I try to be polite and ask them to excuse me in English, but I don't speak perfect English. I am a Francophone. I am simply trying to make an appointment for a customer. Then, generally after a while, people calm down. But there are times, there are people who are in a hurry or stressed out and they don't take the time to listen.... Or even when you go to places where you ask, I don't know, for a cheeseburger. There are words you have to say and they don't understand if you don't say the right word, you are lost.

Some respondents, like Rachel, were suspicious about these kinds of situations and believed that a subtle form of racism was at work against Francophones. Rachel had a great deal to say about the predominating climate in the city where she was living with respect to Francophone immigrants and among her in-laws in particular. In her city, she was insulted based on the fact that she was associated with the "French from France" and with the Quebecois. Ironically, she points out, she was also a victim of discrimination in France since she was identified as an "immigrant" from one of those countries in the "South."

> *I find that it's really a city that's completely...not anti-Francophone, but even with all of this business about separation. There is a hatred for Francophones and I felt it and I still feel it because my husband, in the end, he is one of them. He doesn't really like Francophones. Well okay, maybe he says that because he doesn't want me to get too attached to the idea of going back to France. He tells me, well, anyway you know, [they're] "frogs" you know.... Also, there is my mother-in-law who tells me that France is a worthless country...that Canada is so much better since it is... and I know very well that it isn't true, but.... Well, it is true that I haven't lived here all of my life, but even I see the differences and.... Ah yes, no, nobody likes French people. It is something.... In any case it is funny because it's what I used to say in France. I was subjected to racism because I was [nationality of origin]. And now, I'm subjected to racism because I'm French! Ah yes, it's clear and simple. I feel it. In any case, I feel it when I speak English. I have a big accent compared to everyone else. It isn't one [person], it's everybody.*

Not knowing English can, in fact, complicate integration among in-laws, as Janie reports.

> *...we were very warmly received by the [husband's surname] family. They put us up. There were no problems. After, it was more about integration with the language.*

Linguistic barriers, when a person does not speak French (and, most often, a language other than English) are very substantial. They impede integration through contacts made in the workplace and society in general by reducing the social networks women can call upon in case of problems or simply to socialize. What is striking, however, is the extent to which some respondents were sensitive to the negative attitudes of some Anglophones toward Francophones—attitudes that are reminiscent of the discriminatory practices in Canada based on language. Thus, these women bore the brunt of a history they played no part in creating but were unable to reap the touted benefits of federal, officially "bilingual" immigration.

Discrimination, Racism and Sexism

Racist discrimination is certainly the other barrier that is added to the difficulties Francophone immigrant women in Ontario are confronted with. Most of the women we met with for this study believed they had been subjected to discrimination based on their skin colour, their ethnic origins, their language or the fact that they were women. Sometimes it was difficult to determine what the first motivation behind discrimination was in a given situation. Moreover, as we have already said, discrimination based on race is not necessarily practised in a direct, overt manner, such as when there is an insult or refusal of services. Most of the time, it is practised systemically and people are not conscious of their actions. However, the racist, discriminatory practices to which women fall victim come up in all spheres of activity: in school and university, in the social and community service sector, in hiring practices, in wage conditions, in the street, among neighbours and within families.

These practices also take place with regard to women and, very often, it is difficult to separate racial and sexist discrimination.

The majority of respondents, or 10 women out of a total of 16, admitted that they had been the target of racist acts, comments or behaviour because they were Black, immigrants or Francophones. Sometimes they experienced racism in an academic or work milieu, other times it came up when they were calling on public services. However, it was often difficult for them to untangle the motivation behind the attitudes and behaviour that they observed. Esther wonders if she might have come up against racism in her efforts to get a job.

> *Well, I don't so much feel racism, but the fact that I didn't get a job brings racism clearly to mind, the fact that I didn't get the job that I wanted. It makes me think that some racism was present and then also each time I think about it, that I could have had some job and that I can't get it. Anyway, there aren't any jobs, eh? We can't even think about having...to want to have that kind of job because there are none.*

Esther is also of the opinion that this dynamic sometimes involves racism, but that her political or ideological convictions may also have had some effect.

> *I have never experienced a problem of discrimination in which I can say I wanted to lodge a complaint. The problem, when I didn't get the job I wanted, was that I knew it wasn't just discrimination. It was a question of ideological and political orientation, obviously, because theory [note: the respondent is a teacher] is based on ideological foundations.*

Later on, she says of the two people who were opposed to hiring her:

> *I know that there is some racism in these two people.*

Nonetheless, she wonders:

> *Did racism weigh more heavily than their [ideological] orientations? I don't know.*

Apart from hiring practices, racial discrimination is manifested on many levels in the job market, as for example, in unjustified wage disparities as Catherine relates.

> *As far as wages go, skin [colour] and all that, yes, yes [there is racism]. Moreover, I am the only woman of colour where I work. Sometimes people say that we are paranoid, us Blacks, but it isn't true. We can see it in a person's expression. Sometimes there are little off-the-cuff remarks that people make to you at work. You feel attacked. From a salary point of view also, I was underpaid for a few months for what I do.*

Racial discrimination and racism also exist in colleges and universities from other students. Judith explains.

> *For example, I remember that [that year] I was studying in the office administration program and there were students who didn't want to have anything to do with us. For example, they didn't like to sit beside us. But I can say that it wasn't the vast majority. Two or three or four and then I don't know for the others, if the other students were really angry or were really holding something in. But myself, personally, I didn't hold anything back. I just said to myself, they are Canadians. I am from X. They are White. I am Black. Really we are not the same people. That way, I got over all of that.*

It should be noted, as Judith duly points out, that it is difficult to respond directly to racist attitudes. While Judith decided to get "over all of that" it remains that the climate created in this classroom is certainly not conducive to her studies. Her outward indifference and rationalization of the situation undoubtedly masked profound feelings of helplessness, which can only exacerbate the feelings of isolation that many women may experience, particularly when they are confronted with difficulties attributable to sponsorship. Given the importance of professional training and the strategies adopted by women who wish to break out of their dependency on their husbands and ensure their own financial independence, the issue of racism in professional training and teaching establishments is therefore important to address. The issue of equity with regard to grades and teaching is also clearly important to address, especially for women who, in their country of origin, did not have the opportunity to familiarize themselves with new technologies. Sarah explains.

> *Already with the computer...you'd never touched the thing and you had to be in competition with those people. From the beginning, you are not on an equal footing and the grades that they give you are around the class average. Everything works according to the people who are there and you don't have the same margins of error...you don't have any base, you're starting out...and then if your grades are low, you may get your diploma, but no one hires average students.*

Other Black women experience racism in the socio-community services, where they work, like Louise, for example.

> *But sometimes I found I had problems with the women [I was taking care of]. Some of them would come in and then they would see me.... I find that difficult and then there were those who didn't want me to come near them. They would say to the others: "What is that Black woman doing here?"*

Louise also experienced racism in her everyday life, in her neighbourhood, from a neighbour who did not like the smells coming from her kitchen. This neighbour even wrote his negative comments down on paper. When her husband saw the note, he went to confront the neighbour, using a simple but effective strategy.

> *When he got back he saw the note. The man had written that he did not like the smell of our food. So [my husband] went to speak to him. He said: "The next time you have something to say, come and see me." And that was the last time.*

Other respondents, like Esther, spoke about low, mean-spirited everyday racism, such as expressions of scorn and avoiding eye contact. She also thought that the discrimination she experienced was founded on her ethnic origins and, more specifically, the fact that she was an immigrant in Canada.

> *I think that there is racism in society. I don't feel it much in everyday life. I know that there are people who are very racist. As soon as they see a foreigner's face they turn away. They turn their back on them right away. But that doesn't matter to me. It doesn't matter to me. Those are people... those are people who have no knowledge.... I think that there are stereotypes concerning immigrants, [for example] an immigrant is not able to do the same things a Canadian can do.*

The women did not talk often about the sexist discrimination that they experienced in society, even though they often spoke about this kind of discrimination within their marriage, their family or, sometimes, in their community of origin.

> *A woman [said Rachel of her husband's family] is supposed to stay at home and accept all of the conditions imposed by her man.*

Respondents often admitted that they didn't know if the barriers they were encountering in society in general were due to their gender, the fact that they were immigrant women, that they spoke English "with the big accent" or that they were women of colour, depending on the case. As Esther says again:

> *I think that there is discrimination towards minorities. Yes, but toward women also.*

In this case, sponsorship is an additional factor that perpetuates sexist discrimination already in the marriage. Rachel expresses herself with great conviction on this point.

> *Well there's sponsorship, which can be a plus, but basically, there is a problem, nonetheless. It's a situation of sexual discrimination in the end because basically, for them, for women, that is what it is and I come from a society where even though there is discrimination, there is nonetheless [a certain amount of sharing].... The husband will do the dishes, as his wife does. Here, no. No, it is shameful to see a husband do the dishes.*

Rachel clearly specified not only that she was the victim of sexism and of patriarchal values, but that she also could anticipate the sexist strategies that would be used by her husband and her in-laws if she were to undertake divorce proceedings.

> *I got [married] into a "Mafia family." The first person to suffer would be me, and that's the feeling that I have, and even with regard to my little girl, if something happened, they would take my little girl away, I'm certain. And I know it because I see it, you know.*

For the women we met, sponsorship was one of the phases of their immigration experience. Language barriers, employment integration difficulties, and the sexist and racist discrimination that they had to face shaped their experience, as it did that of many other women who were not necessarily sponsored—particularly women from the South. Nonetheless, by exacerbating relations of control within the couple and creating a dynamic within the marriage whereby the husband undertakes responsibility for his wife, sponsorship makes women's living conditions even more difficult. Consequently, the causes of isolation are multiplied, although they are not experienced as distinct difficulties but rather as a whole by the women we interviewed. The complexity of the situation of the "sponsored woman" is the subject of the analyses presented in Part III of this report.

4. RECOURSE AND STRATEGIES FOR AUTONOMY

As we have just seen, the women we met in the course of this study had to face many obstacles: dependency, isolation and family tensions that could escalate into violence, as well as difficulties integrating into the labour market and into society in general. This does not mean they did not take initiatives to counter negative circumstances. On the contrary. Most of these women developed strategies for autonomy, by relying not only on their own strengths and inner resources, but also by calling on the assistance available to them. This last chapter of Part II explores these strategies. First, we examine what could be called the strategies for autonomy. Second, we explore their recourse to services that could help them in surmounting their difficulties, particularly in cases where they were victims of violence.

We thought it necessary to highlight the different means taken by these women to escape their situations for two reasons: first, to show clearly that, even in times of difficulty, sponsored women will take initiative and are far removed from the image of "passive women" that is often propagated in representations of immigrant women and second, to show that *when help exists, is accessible and meets the needs of women*, they do not hesitate to use services. The idea that immigrant women do not have recourse to assistance services appears to be attributable to the fact that these services are poorly adapted to their needs rather than any kind of intrinsic reluctance on the part of these women. Undoubtedly, this observation applies to the sample group who, as we have said, was made up of women who already possessed some qualifications for integration, particularly with regard to education and professional training. It is easy to imagine that attaining autonomy can prove even more costly for women who are more vulnerable than those in our sample group.

Strategies for Autonomy

The moment the sponsored women whom we interviewed broke away from their husband's control represents a turning point in their stories—particularly in cases where they were victims of violence. For those who succeeded, the process of breaking away was first manifested in their refusal to continue to submit to "sponsorship debt" blackmail, regardless of the price to be paid. Here is what Catherine had to say about her very painful experience with the sponsorship debt blackmail used by her husband.

> *At one point, I told him: "Okay, you go down to Immigration, and stop everything!" Because I felt as though my self-esteem was really suffering. I had even initiated procedures to stop the whole thing, everything. It was hell because the person keeps telling you that you're worthless. The [immigration] papers would come up all the time and I wasn't with him for that [the papers].*

Witness here the dilemma of a woman who wants to stop the immigration procedure. In this vulnerable position, she must ask her husband to go to Immigration to withdraw her sponsorship application. However, the husband in the above-mentioned case did not do so.

It also seems that for some respondents the first incidents of physical violence have an effect on their decision to leave. Such was the case for Judith.

> *In terms of the separation, I can say that the cause was that he pushed me to separate from him. It was because he had hit me and I said: "Right, it's over! It's over!" So I can't say that there was always violence, but in the last days, there was violence.*

Saving the Children

Children played an important role in the refusal to accept abuse according to our respondents. Some women worried about the impact of the violence on the future behaviour of their children, whereas others could not bear for their children to witness their humiliation. Such was the case for Rachel, Judith and Mathilde.

> *For example, my child, I don't want him to say later on: "Well wait, my mother was abused and since she was abused by my father, I will abuse her in the same way." Because if things continue as they are, that is what will happen and I know it. And I don't want that. I don't want my child to insult me or anything like that because his father did...*

> *For five or six months, [I said to myself] okay since I'm here and I have two children, I have to put up with it because they're getting older. [But I am] getting older and my children are growing up. I could not leave things as they were, with my children seeing me as a baby, always crying and crying.*

Violence against women may also be directed at children. And it is also at this point that the dynamic of violence becomes unbearable. As Mathilde said:

> *If there is something wrong, I don't like being insulted and my children should not be insulted either.*

Securing a Job and Achieving Financial Independence

Some women got out of violent relationships from the moment they saw the possibility of working and being financially independent—that is, from the moment their status allowed them to benefit from professional training that led to requalification. Now that she is a citizen, Sarah has a steady job in the public sector.

> *I held onto the hope that I could really change things and then, it was also my little boy because when my son was born, it was as though he was in the way, it wasn't planned, we were dependants and I promised myself that one day I wanted to have my own money. One day, I would make something of myself because really, being dependent on someone.... There were periods when I felt I couldn't do anything.... And then, one day, I decided that it was enough, that I had to get out of there and I was going to make my way. And now I tell myself that if somebody has really succeeded, it's me (laughter).*

Even before they could land a steady job, working in the informal economy was another way of trying to break out of the cycle of isolation. Such was the case for Catherine, who spoke about waiting for papers, a period during which, as we have seen, a sponsored woman is at her most vulnerable.

> *While I was waiting for my papers, because I really didn't want to find myself under someone's financial control, I started my own business, I sold haircare products for Black women. I went to a city that I didn't know and made flyers to give out to women passing by, to attract my clientele. I braided people's hair. Sometimes I was on my feet from six o'clock in the morning to eight o'clock at night. I really wanted to be financially independent because I had taken steps to obtain authorization to run the business, but I couldn't go to work.*

This remark reflects the ways in which the rules were bent, as some women confided. For lack of better alternatives, these women participated in a kind of underground economy. As one respondent said:

> *I didn't care what other people thought about me, I had goals to meet. I had to have money. I had to live. I had to buy food to eat. I had to buy myself a pair of shoes and if I didn't work, I would have to steal. I didn't want to steal, so I agreed to work under the table. I did everything. I did everything I could to make some money, except for prostitution.*

Asking for Help

All the women who had the possibility of leaving violent relationships benefited from the support of one or several key persons who guided them in their initiatives. Some met professionals who allowed them to step back and examine their plight. In Lucie's case, for example, her violent husband controlled all her contacts with the outside world, even those she had with a psychiatrist, following a suicide attempt.

> *I had an appointment with my psychologist. But [my husband] didn't want me to go to the appointment because the first time I went to an appointment with a psychiatrist with him, he wanted to sit in on the session and the psychiatrist told him no, because it was private. He could only sit in if I invited him, and I did not invite him.*
>
> *So there, outside the office, he asked me what I had said. I said: "We just talked about my childhood and about all kinds of things." He said: "Yes, but about what?" I said: "I talked about banal things." And then he got upset because he wanted to know. He wanted to know, because I hadn't told him anything. He said that I must never go to the psychiatrist again. But I persisted anyway and I went on to call the psychiatrist to explain the situation to him a little. That if I didn't go to see him it was because I couldn't. And just before I had another appointment with the psychiatrist, [my husband] called him and told him that I was mentally disturbed. In fact,*

> *he discounted things I might say in advance, saying that everything I would tell him would be fabrications.... Nonetheless, the psychiatrist was a professional. You didn't need to tell him things in advance. And when I spoke to him (to the psychiatrist), he told me that I didn't need to see him, in fact, and that I could perhaps see a psychologist from time to time, because I was not sick. I should not let myself be convinced by that guy [the husband] that I had a problem.*

For Louise, who was practically locked up in her home for the first months in Canada, meeting with a priest was pivotal in her understanding of her rights and the immigration procedures available to her at the time.

> *When I saw the priest, when I told him [my story], he gave me his telephone number. He told me if ever you need anything, if you need help [come see me]. And that too was forbidden. We went out once and [my husband] took me to his friend's house and then we talked a great deal. I told [my husband's friend] a little bit about my situation. So he asked me if I knew the priest. I said yes. Then, he said: "I would advise you to go see him. Call him. But you should wait until he (your husband) is not around." That's what I did and when he wasn't home, I called. [The priest] gave me his address. He told me to come see him. I told him everything. When I met with him alone, he told me that [my husband] had no right to do that to me and that I had the right to call the police and he gave me all the information on violence. Things were different from then on, because when I came back home he was angry. Where were you? I told him: "Things are not going to be like they were before because if you try, it's over. I'll call." That discouraged him.*

Police services, as we will see later, play an important role in the assistance provided to women. It should be noted that in the preceding case, the threat of calling the police put an end to physical violence; unfortunately, it did not put an end to verbal and psychological violence.

Lucie also received assistance from a doctor, who gave her her home phone number.

> *I had a doctor at hospital X. She was the one who gave me the resources [for the] shelter, social assistance, that side of things, the steps I should take. I had a lot of resources and the doctor told me to keep everything in my handbag, never leave my handbag lying around, but keep it with me so that if the situation happened again I could leave. She was really wonderful that woman; she even gave me her number at home in case something happened and told me to call her anytime. And I left...*

Next, it was the services offered by women's shelters that helped Lucie a great deal. However, based on our observations, women seemed to find ways out of their situations during fortuitous meetings with people who were aware of the particular difficulties experienced by immigrant women who are victims of violence. Therefore, it is important to reflect on the different measures that could be taken to facilitate meetings of this type, taking

into account the state of isolation and control in which subordination to marital authority places women.

Fending for Themselves

Very often, women had to summon up their strength of character and self-esteem to save themselves. According to Catherine:

> *My motivation is myself. I go to university. I am the one sacrificing myself. I go to bed late, I get up early. I work full time. I study full time—which is something that he never did [my husband], working and studying full time—having a family and all that.*

Later she adds that, contrary to what her husband would have her believe, the "papers" for permanent residency were "*not a second life.*" For Catherine, permanent residency represented continuity.

> *It's a tool that allows me to function. There are regulations that you cannot get around, you have to be functional. You're in Canada, your papers must be in order.... How many Canadians who are born Canadians or well ..never mind what they have...are not as good at fending for themselves as others who arrived here, who want to live here?*

Lucie also relied on her ability to fight.

> *Well, you have to fend for yourself really because no one is going to do it for you. You have to look. You have to fight in any case.*

Noëla, who just arrived and experienced a great many difficulties, tells a very personal strategy for getting around the obstacles that society placed before her. This is what she has to say when the interviewer asked her how she succeeded in fending for herself despite so many difficulties.

> *As we always say back home, you try one place, it doesn't work. [So] you try in another place. One day, it's bound to work. But listen, you can't run after people who close doors in your face all the time. You always find someone who opens a window, you know. That's what happened. It builds character. The first time, you say to yourself what did I do, why doesn't this person understand what I'm saying to him? The next time, you go to another service, you adapt.... You try.... I have always been like that. I try to go to a different kind of organization and I ask for service. What do they do, the people who work there? I mean, I adapt my words according to what they want to hear. Sometimes, it works and I have to admit it works. Sometimes, it doesn't work.*

The Key to Independence: Professional and Language Training

Our respondents all thought that work was the key to establishing their independence and their autonomy. As Catherine explains:

> *How can you have financial plans if you do not work? No, especially since I am staying [in Canada] and I still believe that anyone who wants to have control of a situation, especially now, in today's world, now, you have to have a source of income.*

Although husbands wished to confine some respondents to the role of homemaker, most of these women rejected that role. Not surprisingly, many chose to enrol in schools or professional training in order to facilitate their integration into the labour market. This is what four women who started out in very different situations had to say.

> *In my country, I had trained as an administrative secretary. You know, back home, there are no...technology is not very advanced. Here, it's computers. I began to take courses, I think it was about one month after I arrived. I started by taking a course in English at (name of establishment). After that, I took classes at (name of college) for a DOS course and after that, I took other classes in WordPerfect and it was a woman who taught me. I went to her place for the classes. After that, I'll be taking classes in September at (name of another college). (Elisabeth)*

> *Now, I'm in a course. I'm in the (name of program) at (name of establishment). The course lasts only one year. Soon, I'll be finished. By the end of April, I'll have finished with my diploma. (Judith)*

> *Yes, I go to school...I'm learning French, English and Math. (Carole)*

> *I contacted the university to do some upgrading, but it's hard. But I haven't yet made a serious attempt because I had my little girl and I wanted to work to put [a little money aside], to get settled in Canada. But those ideas are always in my head, for later on, perhaps part time, to go back to school in my field. (Amira)*

Faced with the fact that equivalencies in studies that took place in their country of origin are not recognized by establishments and employers, some women went back to school in order to get a diploma that would allow them to work. This was the case for Noëla.

> *I was still in school and I didn't have any experience in any field. Therefore, the education that I had in (name of country of origin) was not necessarily recognized. So, my goal, was to return to school. Not even really return, because I have a visa anyway that was still valid for school, despite the fact that they had taken away my passport. So, I continued to go to school anyway because I had taken up my studies.*

As we have seen, the predominance of English in Ontario poses a problem for women who speak French only or who speak French and a language (or several languages) other than English. A number of these women went back to school to upgrade in order to learn English

when they could. Janie, for example, wanted to learn English fairly quickly. Here is how she describes her experience as a Francophone in an essentially Anglophone milieu in southern Ontario.

> *When I wanted the smallest thing, I depended on my husband and found that very frustrating...always having to ask or behave a little bit like a baby. After, it was much better once I started speaking English.*

Mathilde also began to learn English.

> *I learned English for five months and after, I applied for summer courses in English to speak better, improve my vocabulary and work in a group because in any case they had chosen me. Now that I can speak.... I have to develop my English. So they gave me forms to apply. I applied. I took summer courses at the college.*

Since their former training is often not recognized, obtaining permanent resident status allows women to apply all the training strategies that, for many of them, are key to establishing their financial independence. Once they obtained their status, immigrant women had the opportunity to realize their full potential, whereas the constraints they were subjected to during the waiting period effectively deprived them of their freedom and personal development as human beings. As Catherine told us:

> *I mean, I never have [had] any time. It's as though all my energy went into the papers that they finally gave me. I wanted to make up for lost time. Since 1995, when I received my papers, I haven't stopped. I have always been at university full time, full time. Fall, summer, winter, all the time.*

In sum, seeing the importance the women we met attributed to the possibility of having recourse to training programs or language education, we are struck with how important social integration services were to them—whether they were geared toward immigrants or the general public. The following pages are devoted to exploring this aspect, given that it is revealing not only of the strategies adopted by women to escape their situation, but also of the regulatory and societal obstacles confronting women in their quest for autonomy.

Recourse to Services

Last but not least in the strategies developed by the women we met is access to services and client-oriented programs. Listing all the services that these women used to ensure a measure of autonomy would be a lengthy task. Moreover, Part III of this report attempts to present an overview of the rights and the obstacles these women encountered regarding some programs, such as social assistance. For an idea of what this kind of recourse can represent, Sarah's story, briefly cited above, is summarized below. In a way, her story is exemplary in that she attempted to leave an extremely violent relationship, not only by using personal strategies for autonomy, but also by using various public services, when possible (and not without difficulty, as we will see). We then briefly examine the testimonies of women

regarding certain services, including social assistance and assistance services to battered women, given that they often represent the last line of support that women can access.

Sarah's Story

Sarah arrived in Canada as a student on an international bursary from the Canadian government. She met her husband, who was already a permanent resident, while she was at university. Together, they decided that Sarah would be sponsored by her husband so she could stay in Canada.

> *From my perspective, [sponsorship] was not really a big deal, or rather, I didn't see any reason to dramatize the situation. For me it was just fine.*

Due to health problems, Sarah had to interrupt her studies during her last year of school and gave birth to a little boy. At that point, she found herself "awaiting residency" and dependent on her husband.

This waiting period lasted one year, during which the relationship between husband and wife broke down. Sarah's husband insulted her and told her she was a "burden" to him, threatening to withdraw his sponsorship. Sarah kept quiet, but tried to access women's employment programs and professional training courses: she was continually confronted with the fact that she was not a permanent resident, that she didn't have her "sheet of paper," as she called it. Sarah sums up the situation in the following way.

> *And over time, there was a lot of verbal abuse. When you are that way, you feel useless, you can't go to school, you can't work. I went and applied for some programs. At that time, there were still programs for women, things like returning to the labour market. You go there, they tell you no, you aren't an immigrant, that is for immigrants.... You have to spend one year of your life waiting.*

At one point, Sarah tried to enrol in a course, but did not qualify. She remembers how much it hurt when the registration officer spoke to her.

> *And I still remember a man who told me: "What proof do you have that your immigration application will be approved?"*

This incident reinforced the blackmail practised by her husband and her feelings of insecurity. Here is how she describes her interaction with officers working for social assistance.

> *I had met the social workers who told me: "Oh, we can't give it [social assistance] to you because you have not contributed to Canada." I told the lady I was not someone who wished to be a burden to anyone. I said: "You have a set image of people who come from Africa, but I come from a family where we were raised to be productive. We were already working at seven years of age. I know how to go out and make a living."*

Sarah concludes:

> *But you don't have your immigration papers, you're sick, you have a child; there is too much changing for you to have the time to get yourself back on track; I was even a burden to society!*

It should be noted that Sarah used the same word (burden) that her husband had used to humiliate her, thus highlighting the "objective" collusion between an abusive husband and the social assistance officer she met at that time.

When she obtained permanent resident status, Sarah was able to receive social assistance. Faced with violence from her husband, she sought refuge in a women's shelter. Her experience was positive, but there as well, she dealt with a social worker who questioned the violence she was subjected to and wanted to "get her out" of the shelter. Sarah brings up two difficulties that she faced at that time. First, she had to deal with frequent stereotypes from service providers regarding violence and its manifestations.

> *She thought that it was all an act because as far as they were concerned you had to have your nose torn off or an eye put out.... When you explain all of the suffering you went through, that doesn't seem to register in their minds, it is as though you were making it all up so that they'd give you money...*

Second, she had to deal with the funding problems in some women's shelters that are partially subsidized according to the amount of social assistance given to women in the residence.

> *She [the social worker] was the one who was supposed to give her approval about whether a person could stay or not because the shelter is subsidized by social services; and she told me, "You're sponsored, you don't have the right." It was the same as "Go to hell..."*

In this case, the issue for Sarah was not the accessibility of the women's shelter itself, but the funding system behind the services, not to mention the ignorance of the social worker who did not believe that a sponsored woman who had been abused had the right to receive social assistance in Ontario.

According to Sarah, the tide began to turn when she met an employment counsellor who guided her in her efforts. However, prior to that, she had to face a "downgrading." Sarah explains this period in her life.

> *When I decided to go to college to take a computer course [I decided that] the next step was "elementary school." Instead of going to do a masters, you go backwards. You see, it's demoralizing...*

When she arrived in Canada as a student in a scientific field of study, she applied for "technical" courses, but there again, she faced the disappearance of assistance programs to women, even those who had their "sheet of paper."

> *It was a waste, when I had my papers, I went to them and they told me: there have been some local budget cuts.*

As she continued her search, Sarah succeeded in meeting an officer from the Employment Centre who guided her so she could break out of this vicious circle. The officer likely deemed that Sarah might have an affinity for working with computers, but directed her first toward intensive English classes in a community college. She summed up the situation.

> *I didn't know anything about computers. He warned me that there were no jobs for Francophones. "You would do better to take a course in English," he told me, because then, my English was nil. And I spent six months at [name of College] through the snowstorms, with your child, you get on the bus, you get off the bus. I finished that and I said okay, I'm ready, I'm going to take a computer course because he had told me: "If you do things the other way around, you'll have a diploma, but you won't have a job."*

During this period of training and social assistance, Sarah tried to find subsidized housing. Here is what she had to say about her experience.

> *I went to apply, but those people, they are in no hurry. I took a regular apartment that cost more than welfare was giving me, but I said to myself, well, we'll eat less and that's all there is to it. You don't go out with your child.*

Two years later, thanks to a work-study program at the College, Sarah joined the ranks of our sample group respondents who held steady jobs. For Sarah, however, becoming a Canadian citizen made all the difference, both in ensuring that her husband's blackmail and threats had no further effect on her (even though she knew as a permanent resident that she could not be deported) and in benefiting from all of her rights.

> *When I got my citizenship, I said to myself: "Hey, forget this immigration and sponsorship thing. He has no more control over me to get me out of the country...." Oh yes! It's over, that card that begins with a "9," they don't even look at it anymore and in certain places, even when you are a permanent resident, they want you to be a Canadian citizen.*

This is an overview of Sarah's story, or at least the story of her dealings with some assistance services. Her story is presented above because it clearly illustrates the systematic obstacles a sponsored woman may be confronted with. In brief, these obstacles are as follows.

- The total absence of integration services for a sponsored woman awaiting her status. Sarah was not, as she said herself, considered an "immigrant."

- The collusion that Sarah perceived, no doubt justifiably, between the discriminatory attitudes and thinly veiled racism from some service providers and her husband's blackmail, all of which reinforced her humiliation and feelings of insecurity.

- The difficulties of living on social assistance, which sometimes leads to undernourishment.

However, we should also note the following.

- Once Sarah became a permanent resident she was able to use, or request access to, public services. As she points out, however, services are being reduced due to budget cuts.

- Sarah's employment counsellor played an important role (once again, this was a fortuitous encounter with someone who genuinely wished to help).

- Sarah persisted in fighting and, despite the difficulties she encountered, remained strong.

- Sarah emphasized the importance of giving women the time to "turn around," hence the importance of public services in this regard. In the authors' opinion, this remark is crucial. Indeed, when sponsorship breaks down (which was not Sarah's case, but could well have been), immigration officers must judge the ability of a sponsored woman to integrate into Canadian society in order to assess her chances of becoming a permanent resident. However, it is very difficult for a woman who is a victim of violence, who has a child and health problems, to show that this is the case, given that the criterion most often used is financial independence.

While Sarah's story is characteristic of some women who succeeded in getting out of bad situations, we must not forget the extremely difficult moments she experienced during the year when she was awaiting the decision regarding her status. The most dramatic cases of inaccessibility of services involve women who are awaiting status. Indeed, these were the women who neither had access to social assistance nor to medical insurance, particularly when they arrived in the country on a tourist visa (women who had a student visa on their arrival did not experience the same difficulties regarding health insurance). Given the length of the waiting period (one of the respondents waited two years), the situation of these women was very precarious and, most notably, was characterized by total dependency on their husband. As Ingrid tells us:

> *I didn't have the right to social assistance. It was just my husband. I am still.... I am a dependant. When he asks for social assistance, it's as though I were his child.*

Lucie is very conscious that she cannot leave her sponsor, despite the difficulties in their relationship.

> *Well yes, because of the fact that I was sponsored, because he's the person who's responsible for me, he is the person who has to look after my needs. He's the person who has to fulfill his sponsorship responsibilities. I couldn't say: "Well, okay, I don't feel like staying at the house. I am going to go and live on social assistance." No, that would never have worked. It would never*

have worked because I was sponsored by someone and that person had to take care of me.

In fact, ignorance regarding social assistance, even a restricted form of assistance, particularly for women who are victims of violence, is the main reason for preventing women from leaving, as Mathilde's case shows.

You won't get into a fight with him because he is your sponsor, you see; he can kick you out any time. And then when things are going badly at home, you have no recourse, you can't turn to welfare. There, they will tell you that you have to see the person who is taking responsibility for you.

Apart from being stuck in an abusive relationship or feeling like a minor under marital authority, Catherine expresses another feeling that shows the extent of the difficulties associated with integration into the host society. Indeed, she had the feeling of being rejected by a society that, in the end, did not want her.

It's hard to wait like that. And when they say you're not entitled to this or that, and you don't even have access to the services available.... Well, you might as well just tell people that they're not allowed to stay.

Recourse in Cases of Conjugal Violence

The police

Police services have a major role to play in the assistance given to women who are victims of violence. However, it is not easy for some women to call upon these services. The literature on violence against immigrant women has eloquently articulated the hesitation of immigrant women and the contradictory situations in which they often find themselves. It seemed important to us to add to this body of work our respondents' descriptions of what happened when they called the police. We should note that, in one of the cases cited above, a threat to call the police put an end to the physical violence taking place. Unfortunately, the threat did not put an end to verbal and psychological violence. Some women called on the police when the first blows occurred in order to avoid further physical violence or to escape their situation. Here is how Judith and Catherine describe their contact with the police officers.

Yes, I turned to the police to help me escape from all of that. Only, I called the police to explain everything and then the police directed me to a lawyer because I had proof and that was all.

Yes, there was one time and I called the police automatically because the individual wanted to lay a hand on me and I stopped that the first time he hit me. I called the police. I showed that there was still someone who could come and help me.

However, police intervention for this same respondent did not stop the verbal and psychological violence she suffered. Later, in the conversation, she explains.

But, fortunately, I put an end to that. Perhaps it could have happened again, but the fact that the first time he hit me, I called the police and they asked him to leave the house that night. And then, after that, he came to pick up all of his things as though he wanted to leave...and then in the end, it was just a waste of money. He came and apologized. He said that he didn't know why he had acted the way he did, but that didn't prevent him from starting up again, the verbal...

Catherine particularly appreciated that the police put her in contact with a lawyer who advised her about what to do if she were to decide to leave.

I had a lawyer who called me to take on my case automatically and she told me that it was the police who had followed up like that.... I think that it's good, a good approach, the fact that they pass along your telephone number, but people contact you, because if they left it up to you to call, you have been through [all] that, you would never have the courage to go and call, and those people called and then it was very positive for me. It helped me a great deal.

Nonetheless, filing a complaint against a violent husband and calling the police does present some problems. One of the women we interviewed called the police after she received death threats and she filed a complaint. However, her community did not see the possibility of pressing charges against her husband in the same way she did.

We went to court and then, I went back again myself to withdraw the complaint because of the protection of the community, because I was accused of being a witch and then accused of ruining his career, he can't get a job anymore; [they said] "It's your fault, it's your fault, it's your fault." In the end, I said okay. I want peace, so let's stop this but, the law was changed. You can't go and change your mind; I was told that no, we will continue [to press charges].

This woman faced two distinct problems. The first was that her own community blamed her for ruining her husband's job prospects and accused her of being a witch—a very serious accusation in some communities. The second problem was that it was impossible for her to withdraw her complaint once she has filed it. Indeed, even though this new provision of the law undoubtedly protects women, it creates some problems given that a woman may then be ostracized by her community and find herself extremely isolated vis-à-vis the procedures she has initiated. Rachel did not want to call the police. Here is what she had to say on the subject.

Q: When you got a black eye, did you think about calling the police?

A: I don't think I thought of calling the police.

Q: What did calling the police mean to you, to your life here?

> *A: Here, I think that it would mean separation—it's clear.... I don't know what would become of me. And you know, the police, they take care of your problems in their own way and then afterward you find yourself there, and that's all, it's over. You don't have anything anymore. No, it sure wouldn't have come to mind.*

The silence surrounding conjugal violence may also be attributable to the fact that women hesitated to put their husbands in difficult situations. Sarah sums it up like this.

> *You didn't talk, because you didn't want him to get in trouble too, you see; so you try to keep a lid on those things.*

Generally, the police helped the women who called them. In the following quote, it is clear that the police did not believe a husband who had called the police himself.

> *I left three times and three times I came back.... But as it was, he couldn't beat me anymore. I told him, if you dare, I will call the police and then he told me not to worry, I'll call the police. So he called the police to tell them that he didn't want me and all of that. The police took me to the centre, to the [women's shelter] and I spent a month there and then I also went with the police and the social worker to go get my things. He didn't want to give them to me. After, he gave them to me.*

We should note that this respondent threatened to call the police after staying in a battered women's shelter. It was at the point when she felt sure enough of herself that she could use the threat of the police with her husband.

Although some of the women we met had positive experiences with police intervention, a sponsored woman who is a victim of violence still faces many obstacles. McLeod and Shin (1990) describe the situation. They write that the fear of deportation is real, especially for those women who have not yet received permanent resident status. But even if they are residents, immigrant women who do not know their rights may fear being deported for having "caused trouble" in their host country. Others do not want to file a complaint, given that it could lead to their husbands' expulsion—or their own expulsion. Furthermore, the taboo associated with conjugal violence in certain communities is such that women do not wish to dishonour their host families or their own families in the country of origin. The individuating and legalistic approach that is taken in dealing with violence in Canada does not always seem appropriate to them.

Women's shelters

Women's shelters were the front line service providers for women who succeeded in escaping their situations. Despite some shortcomings, particularly regarding knowledge of sponsored women's rights or irregular situations (according to Louise), women's shelters not only gave women protection, but sometimes also gave them a new start in life by rebuilding confidence in their rights and by putting them in contact with other services such as legal aid, social assistance or subsidized housing.

Women's shelters were accessed through various channels: through the police, as we saw above, but also through health professionals. This is what happened to Lucie.

> *So, finally, I didn't tell him that I was going to go see a psychologist. I made arrangements to see the psychologist because it was free, in any case.... I explained to him that I couldn't do it anymore.... I couldn't stay in that kind of environment anymore, that I couldn't live in the house anymore. I don't have a life anymore and I don't want to go back there. I was in tears. I was crying! I was crying! So, she contacted some women's shelters. And finally, I went to the (name of shelter) women's shelter and to Immigration.*

The assessment of services provided by women's shelters was generally positive. According to Sarah, and then Lucie.

> *At the women's shelter people were terrific, the programs were fine and I believe that, if there is one thing that changed my life, it's the time I spent there; also because you see that you're not alone in your troubles or sometimes you tell yourself that your problem isn't as bad as all that. You see other people who have been through the same thing and who got out of their situations. You see, there was a kind of dynamic atmosphere and then there were social workers who would come around to encourage people.*

> *But you know, the place where there was the most support was the women's shelter. I found it good, you see, because those women supported you. Every morning you get woken up. They always asked me: "How are you feeling?" They are always there for you. True, it's their job, but they're always there just the same. In the end, it isn't that they are [perfect] because not all of them do their job well, but most of them, nonetheless, they try to comfort the women, who have lived through things. I encouraged them. I would even say that it would be good if there were more women's shelters because 10 days ago it was full to bursting and there were women who continued to call and they were saying it was full, full, full!*

Another woman found a job through the women's shelter, first as a teacher, then as a worker with battered women. The services of the women's shelter or assistance services for battered women provide information on important resources. Rachel knows about the services for immigrants, for example, through her contacts with a crisis centre for battered women.

> *I [know] them because the Centre, they tried to help. The coffee hours were the main source, I believe. Yes, I know that there are some [services for immigrants], but I have never really gone to any.*

Crisis centres for battered women and women's shelters, therefore, played an important role for the women who used them. Apart from providing shelter, they gave them access to other services. Therefore, restricting their role to providing shelter and temporary protection would be very detrimental to women. In addition, these crisis centres and shelters organized

groups of survivors of violence that were particularly useful for the women who had the opportunity to participate.

Women's groups

Some respondents did find assistance in support groups organized by women's shelters or crisis centres for battered women. Here is what four women who participated in these groups said.

> *It was all women who had been victims of violence and all that, either from their husband or their family and all that. It was as though they were encouraging you and all. Life doesn't stop there. Life goes on. (Lucie)*

> *I would advise them to join a group, get information at the (name of centre) Crisis Centre. Anglophone or Francophone, I think what's important for a woman is to find a women's support group...where they can talk about their problems as women outside of the context of a couple and then, really, if they feel like they are suffocating, if they have concerns, then we should talk about it. (Janie)*

> *It is the only place where you speak and people don't judge you and they don't take sides. (Sarah)*

> *What helped me the most? Psychologically, I can say that it was the group that I met with when I was going through difficult times. I think that if we are not psychologically balanced then...if your inner psychologist isn't working, you can't be functional. You can't succeed anywhere else. So I think that it is the thing that helped me the most, it was going to meet with these women, discussing it...not discussing it, but those people listened to me. They listened to me and, from the beginning, I told them that I didn't want them to give me the solution. I know that I am the one who has to decide for myself what to do. But I just wanted them to listen. (Catherine)*

The following respondent had a more nuanced opinion, but credits the women's group that she saw with giving her support. The extent to which these groups threaten a husband's control should be noted in her answer.

> *In the beginning, it was a form of support. Even though my husband said that in fact they were putting outrageous ideas in my head; it was a form of support because I could talk to them, but after, I saw that they were trying to be a little too therapeutic and they were not trying to approach you like you would [normally] talk to someone. It was therapeutic right away.*

Therefore, there are certain situations in which women's groups were truly helpful. To begin with, there must be a great deal of respect for differences in perspectives and experiences, which is crucial for immigrant women who are sometimes reluctant to speak out about their marital problems. Next, and above all, women need a place where there is a common language. As we have often specified, the women we met with during this study all spoke French. Those

who had recourse to the services of a women's shelter and women's groups were already in contact with services provided in French. The issues are different for women who speak French only and who live in cities where there are virtually no services available in French. In these cases, the scarcity of services endangers the safety of women and, at the very least, prevents them from receiving the full benefit of the assistance that these services can provide.

The issue of the language of services can also prove to be more complex than we might think, particularly for women who are uneasy about the consequences of their decisions within their own community. In these cases, access to services is not only more difficult, but may also prove to be less "efficient." Finding yourself in a group where your first language is spoken and which maintains links within a small community can increase mistrust. Here is what one woman answers when asked if she had used a Francophone, multicultural women's crisis centre for abused women.

> *No, [I didn't go]. And the name alone scares me, you see I don't want any retribution, you see.... Anyway, for myself, [taking part in] discussions that have to do with family problems over there, you're not ready for that.... First, you have to explain culturally the way in which we were raised and family problems, you don't discuss them openly.... It is only when you crack that you talk.*

Despite her misgivings, this woman had recourse to women's shelters and women's groups. However, we can sense from what she has said that the confidentiality of services was extremely important, for protection not only with regard to her husband but also with regard to the pressures that a certain part of her community of origin could exert.

The positive experiences of some women who had access to support groups led us to believe that these women, who could all communicate in French, found support in some services. But for all the women who had access to these services, how many did not know that they existed or found themselves in situations where they were so totally isolated that they had no possible recourse? Access to services directly geared toward battered women comes, in fact, after a woman has already taken the initiative several times (sometimes at her own peril) to break out of her isolation. Indeed, this is one of the main difficulties in providing assistance to women who find themselves in situations of violence. In addition, it is perhaps at the juncture between "formal" services and networks of personal assistance (discussed above) that we should conduct further research.

Conclusion

Based on the testimonies of the women we consulted, we can conclude that the sponsorship regime affects women in many ways. It seems obvious that, even for those women who have harmonious relationships with their husbands, the very slow and complex procedures that sponsorship introduces into the lives of families impedes the possibility of expedient reunification. For those who apply within Canada, the waiting period makes them very vulnerable to isolation and to an arbitrary marital authority. Moreover, the absence of information on their rights and the emphasis placed on their obligations by immigration personnel mean that sponsored women generally do not have all the necessary information

at their disposal that would allow them to assess and clearly understand their situations. In a way, they find they are treated as "minors" since possibilities for action to change their situation are limited.

The sponsorship regime placed the women we met during this study in relationships of dependency with regard to their husbands who could, if they so wished, exercise different forms of control, particularly financial control. Some women placed blackmail based on the "sponsorship debt" at the crux of these mechanisms of control. The sponsorship debt made these women vulnerable to the position of power their husbands occupied within their marriage, a position reinforced by the integration difficulties these women experienced. Moreover, by being able to withdraw sponsorship during the waiting period for permanent residency and threatening to do so, the husbands were able to wield a weapon that the sponsorship regime had served to them "on a silver platter." During this period, a wife has no choice and, most often, keeps quiet, even if she is abused. When sponsored women become permanent residents and succeed in understanding the full extent of their rights, they are able to act, develop strategies for autonomy and make use of some services. This does not, however, mean that they are granted the same rights enjoyed by other permanent residents, as we saw with regard to social assistance. The sponsorship experience, therefore, extends beyond the marriage. Conditions for integration, including the procession of difficulties associated with joining the labour market, overcoming language barriers and facing various forms of racist and sexist discrimination make the experience of sponsorship very difficult for Francophone immigrant women in Ontario.

Nonetheless, having heard testimonies from the 16 women we interviewed, we are struck with their strength and dynamic spirit. Indeed, whether or not they were experiencing difficulties in their marriage, they rallied to the possibility of improving their situations and that of their families, particularly when they had access to professional training courses or to forms of recognition for their diplomas and the qualifications that would allow them to get their lives back on track, lives that were often upset by emigration and their situation as sponsored women. They used the tools the (federal and provincial) governments had developed to assist people who temporarily find themselves in difficult situations, including social assistance, professional training or language courses, community services, day care and assistance services for battered women. However, the budget cuts currently affecting all of these services are increasing the risk of sending sponsored women immigrants into a financial and psychological vacuum at best and into untenable family situations at worst. The privatization of sponsored women inherent in the obligations associated with the undertaking of responsibility for women by sponsor-husbands reinforces the disengagement of the state in its social obligations.

Still, as one of the respondents whose husband "...kept her as if he owned [her]" said when she arrived in Canada:

> *When you are sponsored, you are not a slave to the person who sponsors you and even though you are sponsored, you can do things because you have your document, so nothing can happen to you. They can't deport us. They don't have that right. Therefore, we have the right to live like anyone, like any woman does.*

PART III: SPONSORSHIP AND THE EQUALITY RIGHTS OF IMMIGRANT WOMEN

INTRODUCTION

The experiences related by immigrant women throughout this project, and discussed in Part II of this report, revealed that sponsorship poses problems in the context of a conjugal relationship, when a man sponsors his spouse or fiancée. Many women clearly associated sponsorship with increased vulnerability with respect to their spouse. They described how the "undertaking of responsibility" instituted by sponsorship can be used as a mechanism to control various aspects of their life and to keep them under the yoke of marital authority.

In this part of the report, we endeavour to examine the effect of the sponsorship regime on immigrant women in the context of the equality rights guaranteed by the *Canadian Charter of Rights and Freedoms*. The equality rights provisions of the Charter establish a normative framework under which the rules of law set forth by the various levels of government may be evaluated. This normative framework subjects the federal and provincial governments to specific obligations. Notably, there are the obligations not to discriminate against groups that have, historically, been the victims of discrimination and not to aggravate their historic disadvantage. The reference criterion in assessing these obligations is the impact of federal and provincial sponsorship laws, regulations and practices on the status of immigrant women. If, for example, the sponsorship regime has a tendency to exacerbate women's disadvantage or if it adversely affects them, we may then infer that there is a discriminatory effect on immigrant women.

The following pages provide an overview of the key principles that have progressively come to light in the courts with respect to equality rights and the most appropriate context in which to examine the sponsorship regime: racism and the "racialization" of immigrants, sexism and the patriarchal appropriation of women, and the specific position of immigrant women at the intersection of these major systems of control. Since this study deals with sponsored women living in Ontario, we focus on the situations specific to that province. We then examine the consequences of certain characteristics of the sponsorship regime on the rights of immigrant women.

1. THE RIGHTS OF IMMIGRANT WOMEN

The Constitutional Right to Equality

Equality rights between the sexes were recognized in Canada in various legal texts drafted after World War II,[71] but it was not until 1982 that the right to equality became a constitutional right, and it took until 1985 for section 15 of the *Canadian Charter of Rights and Freedoms*[72] (hereafter referred to as the Charter) to come into force. The entrenchment of equality as a constitutional right has profoundly changed Canadian law. The Constitution of Canada now clearly prohibits federal and provincial governments from adopting laws that discriminate against women.[73] Section 15 of the Charter provides for the following:

> 15(1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.
>
> (2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

The Supreme Court of Canada has declared that "The rights enshrined in section 15(1) of the Charter are fundamental to Canada. They reflect the fondest dreams, the highest hopes and finest aspirations of Canadian society" (*Vriend*: 535). The Court adds:

> In the case of s. 15(1), this Court has stressed that it serves two distinct but related purposes. First, it expresses a commitment—deeply ingrained in our social, political and legal culture—to the equal worth and human dignity of all persons.... Secondly, it instantiates a desire to rectify and prevent discrimination against particular groups "suffering social, political and legal disadvantage in our society" (*Eldridge*: 667).

Effective Equality

It is generally agreed that section 15 of the Charter defines equality rights as completely as possible, providing for the following four criteria: equality before the law (the right of a person or group not to be treated more harshly than another pursuant to the law), equality under the law (to ensure equality in legal texts and regulations), equal protection under the law (the right to be equally protected by the law or legal practices) and the right to equal benefits provided by law (a very broad concept guaranteeing that each person or group of people not only has equal rights to benefits provided by law, but also the right to benefit from the law on a totally equal basis). Thus guaranteed, the laws regarding equality greatly surpass the framework of "formal" equality, which applies only to identical treatment among people in similar situations (Brodsky and Day 1989: 159). Although formal equality is

generally a condition precedent to equality (e.g., women having the same right to vote as men), it is not a guarantee of real equality (Brodsky and Day 1989: 37). The Supreme Court states that government actions should be evaluated according to the end purpose of Charter section 15, namely, the effective realization of equality. From this point of view, similar treatment does not necessarily lead to equality. For example, the measures ensuring eligibility of maternity benefits provided by the *Employment Insurance Act* are valid, even though they apply solely to women.

To prove that section 15(1) of the Charter has been violated, we must do more than prove that inequality was present; we must prove that this inequality was discriminatory. According to the Supreme Court of Canada:

> [T]o determine whether the distinction created by the law results in discrimination...it is necessary to consider first, whether the equality right was denied on the basis of a personal characteristic which is either enumerated in s. 15(1) or which is analogous to those enumerated, and second, whether that distinction has the effect on the claimant of imposing a burden, obligation or disadvantage not imposed upon others or of withholding or limiting access to benefits or advantages which are available to others (*Vriend*: 545).

Therefore, rather than making a simple distinction or proving difference of treatment, the emphasis lies with the burdens or disadvantages imposed on women.

The Various Types of Discrimination

The Supreme Court of Canada has adopted a broad definition of discrimination.

> Discrimination is a distinction which, whether intentional or not but based on grounds relating to personal characteristics of the individual or group, has an effect which imposes disadvantages not imposed upon others or which withholds or limits access to advantages available to other members of society (*Andrews*: 174).

This definition encompasses both direct discrimination and disparate impact or indirect discrimination. Direct discrimination occurs when a law, regulation or practice formally distinguishes on prohibited grounds. A law excluding lesbians from certain benefits would be one such example. Indirect discrimination occurs when such rules or practices are neutral on their face but have a discriminatory impact on a person or group of persons protected by section 15 of the Charter. In other words, a law or regulation will have a discriminatory impact if, although it applies equally to everyone, it imposes on those groups obligations, punishment or restrictive conditions that are not imposed on other people, because of a characteristic specific to their membership in that group (*Eldridge*: 672). This type of discrimination can be more insidious than direct discrimination because it is not formally written into law. It is the product of a policy or practice that seems neutral, making no distinctions between groups, but that has the effect of exacerbating the disadvantage of

women in comparison to men or the disadvantage of women in certain communities compared to women of the dominant culture and class.

Thus, it is not necessary to prove that the government intended to discriminate against women to demonstrate that a specific policy affects equality rights; rather, it must be established that the policy has a discriminatory effect.[74] By placing the emphasis on the effects of government action instead of on the intention behind enacting its target measures, the Supreme Court has opened the way to a truly egalitarian interpretation of the Charter.

Government Obligations

The governments of Canada have a constitutional obligation not to implement any policies that impose burdens, obligations or disadvantages that would have the effect of aggravating the disadvantage of women and other groups protected by section 15 of the Charter. If they adopt discriminatory policies, these policies could then be contested before the courts under the Charter and perhaps be declared inoperative under section 52.

In addition, governments shoulder other, weightier, obligations. Indeed, apart from not discriminating, they must also adopt specific measures to avoid or remedy discrimination. Therefore, the Supreme Court of Canada introduced the possibility that the provincial or federal legislator would have "positive" obligations in virtue of the Charter, thus introducing the possibility of contesting the fact that the state has not legislated or adopted concrete measures to remedy discrimination.[75] As Professor Martha Jackman wrote (1998: 366), "With its decision in *Vriend*, the Supreme Court has recognized that state inaction which results from the discounting of, or wilful blindness to, the needs and rights of a disadvantaged group may be as offensive to equality rights principles as more overtly discriminatory government action."

In the *Eldridge* decision, Judge La Forest stated (680-681): "If we accept the concept of adverse effect discrimination, it seems inevitable, at least at the section 15(1) stage of analysis, that the government will be required to take special measures to ensure that disadvantaged groups are able to benefit equally from government services." In this case, the Court judged that hospitals implementing a mandate from the provincial government to offer health services to the public had to provide special services adapted to the needs of deaf people. If they neglected to do so, their inaction would constitute a discriminatory act that would deprive deaf people of effective access to health-care services. As Bruce Porter wrote (1998: 78):

> The point of the purposive approach emerging from *Eldridge* is to focus on the inequality which needs to be remedied by the provision of a service or benefit rather than on the question of how inequality is connected to an existing statute. Once it is accepted that a government has a responsibility to meet certain needs of disadvantaged groups, which the Court accepts in *Eldridge*, then the failure to meet these needs constitutes a violation of section 15 at the moment the need arises and is ignored.

The fact that governments must fulfill their "positive" obligations is reinforced by the provisions of section 36 of the *Constitution Act, 1982,* which states that federal and provincial governments "are committed to promoting equal opportunities for the well-being of Canadians" and to "providing essential public services of reasonable quality to all Canadians." The equality rights set forth in the Charter must be achievable. Insofar as the government controls the conditions under which public institutions operate, there is an obligation to ensure that the inequality of immigrant women does not recur.

Moreover, by signing and ratifying many international agreements for the protection of human rights,[76] Canada has agreed to promote the right to substantive equality for women. The Charter and its equal rights provisions must be interpreted in light of these obligations. In 1948, the General Assembly of the United Nations adopted the *Universal Declaration of Human Rights*.[77] In Canada, the Declaration was a source of inspiration for the drafters of the *Canadian Bill of Rights* and the *Canadian Charter of Rights and Freedoms* (Schabas 1997: 56). The preamble of the *Universal Declaration of Human Rights* states that "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women, and...to promote social progress and better standards of life in larger freedom."

Following the *Universal Declaration of Human Rights*, the international community adopted two international treaties ratified by Canada in 1976, the *International Covenant on Civil and Political Rights (ICCPR)*[78] and the *International Covenant on Economic, Social and Cultural Rights (ICESCR),*[79] which have a constraining power on the states that are party to these documents. These two documents are intended to protect human rights and the right to true political, economic, social and cultural equality.

The ICESCR stipulates that the states that are a party to the Covenant commit to act "with a view to achieving progressively the full realization of...rights," notably the right to social security (Art. 9). According to section 11, the parties "recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions." Canada has also ratified the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW),[80] a significant document, in that it deals specifically with women. Its aim is to eliminate all forms of discrimination against women and promote their equality. It imposes positive obligations on the states that are party to the Convention to achieve those aims. Rebecca J. Cook (1990: 648) argues that the goal of CEDAW is to ensure that the signatory states progressively eliminate all forms of discrimination against women so women and men can enjoy true equality. Cook stresses that the member states have the obligation to put in place the measures necessary to reach this objective.

CEDAW stipulates that the states must "refrain from engaging in any act or practice of discrimination against women and...ensure that public authorities and institutions shall act in conformity with this obligation" (Article 2(d)) and "take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing

them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men." (Article 3).

The *International Convention on the Elimination of All Forms of Racial Discrimination*[81] effectively prohibits all racial discrimination in Canada which has "the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life. " (Article 1). The states that are part to the Convention agreed to engage in no act or practice of racial discrimination and to take effective measures to review governmental policies that have the effect of creating racial discrimination or perpetuating racial discrimination wherever it exists (Article 2).

In sum, international law comprises many obligations that governments are required to honour with regard to the respect and promotion of the human rights of women. Our federal and provincial governments must respect the spirit and intent of these instruments. Moreover, the Canadian and Ontario governments have agreed to ensure the progressive realization of the full exercise of human rights. Consequently, it may be said that both governments are legally committed to ensuring the progression of women's rights towards equality. Indeed, international human rights law prohibits states from backtracking and abandoning or dismantling acquired rights, namely, civil and political rights, and social, economic and cultural rights (Scott: 1996).

The obligations of the federal and provincial governments are interrelated by virtue of international law and the Canadian Charter, as Day and Brodsky (1998: 75-76) write:

> Canada has made commitments to equality at every level—internationally, constitutionally, in quasi-constitutional human rights statutes in every jurisdiction, and through related laws, social programs, and other forms of social regulation. These various levels of commitments are not disconnected from each other; they are components of a larger equality framework. Each instrument can be given its full meaning only when it is seen as part of this framework, and not in isolation.... There can be no question, looking at the larger framework of Canada's equality commitments and all its components, that it encompasses a commitment to the elimination of women's social and economic inequality. The question now is: Will Canada live up to this commitment?

Women Sponsored by Their Spouse and Charter Section 15

The grounds of discrimination enumerated in section 15(1) of the Charter are race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. This list is not exhaustive since section 15(1) only refers "in particular" to these prohibited grounds of discrimination. We could also demonstrate that there is violation of the right to equality according to the Charter if the alleged discrimination is founded on grounds "analogous" to those listed. That is, if the members of a group are subjected to burdens or disadvantages due to a distinction based on "a deeply personal characteristic that is either unchangeable or

changeable only at unacceptable personal costs" (*Vriend*: 546), they are protected by the guarantees of section 15. Thus, the Supreme Court ruled that sexual orientation was an "analogous" ground of discrimination prohibited by section 15 of the Charter (*Egan*: 513; *Vriend*).

While sex, colour, national and ethnic origin are explicitly listed as prohibited grounds of discrimination, section 15 makes no mention of the status of immigrants or Francophones. Nevertheless, in the 1989 *Andrews* judgment, the Supreme Court of Canada recognized that, historically, immigrants had been victims of discrimination in Canada and that discrimination on the basis of non-citizenship was an "analogous" ground of discrimination prohibited by section 15 of the Charter. As Madam Justice Bertha Wilson wrote in *Andrews* (152): "Relative to citizens, non-citizens are a group lacking in political power and as such vulnerable to having their interests overlooked and their rights to equal concern and respect violated." The Supreme Court has not yet discussed whether Francophones constitute a group protected by section 15 and the case law from the few appeal courts that have dealt with the issue is contradictory.[82]

However, in an article published after the decision of the Conservative Harris Government to alter radically the mandate of the Montfort Hospital, the only Francophone university hospital in Ontario, Professor Marc Cousineau (1997-98) argues that Francophones of Ontario constitute an analogous group and should be protected in accordance with section 15 of the Charter. Language, he wrote, constitutes a trait of identity and belonging, which makes it a "deeply personal characteristic." The Franco-Ontarian community constitutes a "discrete and isolated" minority, accounting for five percent of the population and whose status has been implicitly recognized through the adoption of the *French Language Services Act* and the development of a French school system. Moreover, the Francophone community has been the victim of historic disadvantages, such as the refusal of the province to finance secondary education until the 1970s. As a group, Francophones remain vulnerable to expressions of hostility and intolerance from the Anglophone majority. This is revealed through public reaction to the passing of the *French Language Services Act* and the fact that 70 municipalities have passed English-only resolutions by which they have declared themselves unilingual English-speaking (despite the fact that the Act does not apply to municipalities). Cousineau adds that language is recognized as a prohibited ground of discrimination in the *Quebec Charter of Human Rights and Freedoms* (chap. 12, art. 10), and in international law (ICCPR, art. 27), and even if it does not formally constitute a ground of discrimination prohibited by virtue of the *Ontario Human Rights Code*, it may be invoked to file a complaint with the Commission. Language is also closely related to other grounds of discrimination prohibited by section 15 of the Charter, especially with regard to national and ethnic origin. Cousineau (1997-98: 387) concludes that the decision of the Commission to strip the Montfort hospital of all its programs was discriminatory toward a group that was analogous and, therefore, protected by section 15 of the Charter.

Sponsored women are at the intersection of various categories of discrimination and, by virtue of this fact, should benefit from effective protection against all laws and practices that have a discriminatory effect on them. As women, they experience the direct or systemic discrimination experienced by women in Canadian society. As married women, they are

subjected to the weight of a relationship of patriarchal control and subordination that has long been sanctioned by law and that continues in practice, as we will see in the following pages. The great majority of sponsored women are Black, women of colour or from a community which has been "racialized" by the dominant society. The characteristics of people who have immigrated to Canada have greatly changed over the last 40 years, concomitant with the Canadian government's progressive abandonment of formally racist immigration policies. Of the women who immigrated to Canada between 1961 and 1970, only 12 percent came from Asia or the Middle East, while 64 percent came from Great Britain and other European countries. However, this proportion was nearly reversed between 1988 and 1991, when 52 percent of immigrants came from Asia and the Middle East, and only 23 percent came from Europe (Statistics Canada 1995: 118). As we have seen, recent data indicate that approximately 80 percent of immigrants come from Asia, Africa, the Caribbean and Latin America, and only 20 percent come from Europe and the United States. While identifying immigrants' countries of origin does not provide accurate equivalency with regard to the proportion of people of colour in Canada, it still constitutes an important indicator. According to data calculated from the 1986 Census by Monica Boyd (1992: 286), of Canadians born in a foreign country, 95 percent of those defined as "visible minorities" were born other than in the United States, the United Kingdom or Europe. Likewise, she observes, the same percentage of persons defined as non-members of visible minorities were born in North America and Europe. For many years now, the vast majority of immigrants to Canada have clearly been people of colour.

Generally, women (and men) have been "racialized" and have endured a variety of social, economic, legal and political disadvantages as a result. As the Commission on Systemic Racism in the Ontario Criminal Justice System recently wrote: "Racialization is the process by which societies construct races as real, different and unequal" (Ontario 1995: 40). Vic Satzewich (1998: 32) maintains that the determining factor in the process of racialization is the demarcation of the frontiers and identities of groups using physical and/or genetic criteria, with or without reference to race. While the notion of "race" as the foundation of biological or physiological distinction has been discredited,[83] Colette Guillaumin reminds us (1984: 218) that the act of saying race does not exist does not eradicate racism. Racialization is a useful concept in demonstrating that racism is a product of a social process that attributes specific characteristics to a given group according to the dominant ideology of a given period. As Sherene Razack recently wrote (1996: 217), races, like nations, are imagined and our interpretation of race is a product of its attributed social significance. This observation lays bare the relativity of the notion of "race" as a reflection of the prejudices and class interests of a given period. Razack further stresses that the racialization of immigrants was not only directed toward Blacks and other "racial" minorities, but also toward people attributed with "negative" characteristics in order to justify their economic exploitation or unfavourable socio-economic treatment. Such was the case for Italians and other southern Europeans.[84]

Thus, immigrant women run the risk of suffering racial discrimination, harassment or even racist violence, in the form of hate crimes. Immigrants may be targets of xenophobia, which always surfaces during economic crises or in times of war, and they are affected by more or less racist trends in immigration legislation (Trickey 1997: 113). If immigrants are subjected

to discrimination based on their ethnic or national origin or their status as immigrants, it is because their community has, at one time or another, been racialized by the dominant culture. As Francophones, they belong to a linguistic minority whose rights have been systematically abused in Ontario and who suffer from discrimination that many associate with a distinct form of "racism," as echoed by Rachel in her comments on the situation of Francophones in the city where she lives.

> *I find that it's really a city that's completely.... There is a hatred for Francophones and I felt it and I still feel it because my husband, in the end, he is one of them. He doesn't really like Francophones. In any case it is funny because...in France, I was subjected to racism because I was [nationality of origin]. And now, I'm subjected to racism because I'm French.*

The specific impact of sponsorship must, therefore, be evaluated taking into account the multiple and converging identities of sponsored women that make them more vulnerable to discrimination and exacerbate the negative effects of specific instances of discrimination. A sponsored immigrant woman is usually a woman of colour and she must bear the burden of historical and current practices that come from a sexist, racist, anti-immigrant and anti-Francophone ideology. In many cases, it is difficult to identify a single cause for discrimination. We must resist the temptation to analyze racial discrimination and sexual discrimination separately. Instead, we should target the effects of the law and governmental practices in relation to the circumstances and concrete identity positions of sponsored women.

It should be noted that the approach taken by various human rights tribunals in Canada in analyzing discrimination experienced by women of colour tends to be simplistic and reductionist, as Professor Nitya Iyer (1997: 257) demonstrated in a salient article, "Women: Racial Minority Women in Human Rights Cases." "The very structure of our law precludes it from hearing the stories of or recognizing the personhood of racial-minority women. It obscures and distorts the realities of experiences of discrimination for the sake of maintaining naïve and tragically simplistic analytical structure for anti-discrimination law." In examining how complaints regarding sexual and racial discrimination are processed, Iyer's study demonstrated that women who belong to racial minorities were not recognized as a group and had to choose to identify themselves either as "women" (a classification informed by the dominant model of the White woman), or as people belonging to a racial minority (a classification informed by the masculine norm). Paradoxically, women of colour, per se, are invisible since the law can only conceptualize one scenario of discrimination at a time, based on one "difference" in relation to the universal White male norm: there is either racial discrimination or sexual discrimination. On this subject, Iyer writes (1997: 253): "The model upon which each type of discrimination doctrine is based is someone who diverges from the norm in only one respect—a white (adult, able-bodied, and so on) woman in a sex discrimination case, a racial-minority man in a race discrimination case."

However, it may be very difficult to identify a single cause of discrimination, as illustrated by Judith.

> *For example, I filled out applications and I was told that I would be called and I was never called. I don't know why. Was it because I am Black? Was it because I am an immigrant? Was it because I don't speak English? As far as I am concerned, that was the only reason.*

Esther, who had applied for a teaching position, which she did not obtain, states:

> *When I didn't get the job I wanted, I knew it wasn't just discrimination. It was a question of ideological and political orientation, obviously, because theory [note: the respondent is a teacher] is based on ideological foundations.*

Later on, she says of the two people who were opposed to hiring her.

> *I know that there is some racism in these two people.*

Nonetheless, she wonders:

> *Did racism weigh more heavily than their [ideological] orientations? I don't know.*

The complex dialectic of racism, sexism and other grounds of discrimination as well as the manner in which this dynamic is experienced and interpreted by women are usually ignored by the law. Sherene Razack (1997: 253), has pointed out this complex interaction of factors and stresses that it is often impossible to untangle sexual harassment from racial harassment since racial harassment often has sexual overtones and sexual harassment often crystallizes around racist ideas. Indeed, the law has rigid systems of classification in its assessment of discrimination and often women of colour do not satisfy the criteria of specific classifications. As Iyer has written (1997: 257): "The effect of stereotypes that cross and combine categories is left unexamined." All too often, the complexity of a situation and its negative and destructive impact on the dignity of the person are totally absent from legal discourse.

Nitya Iyer points out (1997: 258) that a serious error is committed when the law examines only the "difference" of the victim of discrimination (e.g., his/her sex, disability or sexual orientation) since discrimination is a structural and relational problem and is not the consequence of an inherent weakness on the part of the discrimination victim. Iyer recommends an approach based on "relationships" that takes into account the context in which social interaction occurs. "Discrimination ought to be assessed in light of three interrelated considerations—the characteristics of people involved (race, gender, and so on); their relationship and the conduct arising out of it; and the larger social context within which that relationship is located." In the same vein, Professor Razack (1997: 225) maintains that we cannot continue to view people's differences without contextualizing them in the social relationships that give them their meaning. Instead, we should view differences as the products of the social relationships that constructed them as sources of vulnerability.

Our efforts to understand the reality of immigrant women sponsored by their spouses and the discriminatory impact of the sponsorship regime on them should involve more than an exclusive examination of the "differences" that construct their identities as potential victims of discrimination and that determine whether they belong to any of the various groups listed in Charter section 15. Indeed, we should also examine the historical, social, economic and political contexts that contribute to creating the relationships they have with their spouse, family, community and labour market, for example.

The Importance of Context

For several years now, the Supreme Court of Canada has recognized the importance of context in its judgments concerning the application of law to particular circumstances. Indeed, the judgment in the *Lavallée* case recognized that a homicide committed by a woman victim of conjugal violence had taken place in the context of the violent relationship she was enduring, and took into account the evidence of experts on the typical reactions of women to conjugal violence to determine whether the accused could enter a plea of self-defence. In the *Moge* case, the court took into account the social and economic consequences for women of the traditional division of labour in marriage when it ruled on the nature and duration of alimony between the ex-spouses.

Similarly, in the *Eldridge* case, the Supreme Court of Canada had to determine whether a hospital violated equality rights entrenched in the Charter by failing to offer interpretation services to people with a hearing disability. First, the Court reviewed the history of people with a disability in Canada, stating that "It is an unfortunate truth that the history of disabled persons in Canada is largely one of exclusion and marginalization" and that "[a]s a result, disabled persons have not generally been afforded the 'equal concern, respect and consideration' that section 15(1) of the Charter demands." (*Eldridge*: 668). Then, the Court made a link between historic discrimination against people with a disability and the socio-economic disadvantages they experience, notably the fact that they are "more likely to be outside the labour force, face much higher unemployment rates, and are concentrated at the lower end of the pay scale when employed" (*Eldridge*: 668).

Thus, contextualization is an exercise that helps us understand the real impact of the rule of law on a particular social group. In *R. v. S.* (R.D.), the Supreme Court maintained that "[j]udicial inquiry into context provides the requisite background for the interpretation and the application of the law." Moreover, the Court held that a reasonable person "must be taken to be aware of the history of discrimination faced by disadvantaged groups in Canadian society protected by the Charter's equality provisions." The Supreme Court recently reiterated the importance of the examination of context in *Law v. Canada*, in which Justice Iacobucci wrote on behalf of the unanimous Court.

> As has been consistently recognized throughout this Court's jurisprudence, probably the most compelling factor favouring a conclusion that differential treatment imposed by legislation is truly discriminatory will be, where it exists, pre-existing disadvantage, vulnerability, stereotyping, or prejudice

> experienced by the individual or group.... These factors are relevant because, to the extent that the claimant is already subject to unfair circumstances or treatment in society by virtue of personal characteristics or circumstances, persons like him or her have often not been given equal concern, respect, and consideration. It is logical to conclude that, in most cases, further differential treatment will contribute to the perpetuation or promotion of their unfair social characterization, and will have a more severe impact upon them, since they are already vulnerable.

Thus, to determine if the sponsorship regime has a discriminatory effect on sponsored women, we should assess social, economic, political and historical contexts, all of which contribute to constructing the identities of immigrant women in Canada and perpetuating their inequality. Only within this framework can we determine if the rules governing sponsorship could have a discriminatory impact, more specifically, whether they could increase or exacerbate a disadvantage already experienced by this group, which, historically, has been disadvantaged in Canadian society. Without doubt, racism and the racialization of immigrant women, and the sexism and patriarchal appropriation of women are the two main analytical frameworks that define the context in which the identities of immigrant women are constructed in Canada. On the subject of racism, Patricia Daenzer would add that (1997: 275) the current status of Blacks in Canada is historically linked to past antagonisms generated by the Canadian government and that the persistent struggles of Black women are rooted in the knowledge of these battles past. In the pages that follow, we discuss certain salient facts, cognizant of the fact that this exercise can only be partial at best.

Racism and Racialization

As we saw in the first part of this report, immigrant women inherit immigration policies born of the racism (and sexism) that was explicitly and formally sanctioned in Canadian legislation until the end of the 1960s. Until that time, Canadian immigration policies were geared toward successively turning back Chinese, Japanese, Indian, Black and Jewish emigrants (Bolaria and Li 1985; Bagambire 1992; Calliste 1993; Khenti 1996; Head 1975; Thornhill 1993). As David Matas suggests, one can speak of "racism as Canadian immigration policy" (1996: 19). Lawyer Chantal Tie would comment that, historically, the experience of "non-White" immigrants has been marked by policies that reflect systemic discrimination against people of colour. Tie (1995: 111) contends that non-White immigrants confronted stereotypes and prejudices, and were deeply disadvantaged from a legal standpoint. They were not evaluated according to aptitude or personal merit, but according to race, religion, colour and national or ethnic origins, or some combination thereof.

The racialization of immigrants is even more pronounced in Ontario, a province deeply marked by racism from the first years of its existence and remains so. In fact, of the 16 members of the first Parliament of Upper Canada, at least six owned slaves (see Head 1975; Hill and Schiff 1985; Alexander and Glaze 1996; Thornhill 1993). In 1859, Ontario adopted the *Separate Schools Act*, which allowed municipal councils to open "separate" schools for Blacks, thereby instituting racial segregation in education. Although closure of these schools began in 1910, the Act was not repealed until 1964. In 1965, one dilapidated school in the Windsor region still remained, attended exclusively by Black students—all the other children

had been transferred to a more modern school, a few kilometres away (Head 1975: 12). Racial discrimination was an omnipresent reality in Ontario, whether it was with regards to access to property, in clauses prohibiting the sale of buildings to persons not belonging to the "Caucasian race" (Mosher 1998: 96-97) or in job discrimination and access to public services. Furthermore, all these practices were officially tolerated by the courts of Ontario and the rest of Canada for the first half of the 20th century (Tarnopolsky 1982). Although the unrelenting struggles of Jewish and Black community organizations forced the provincial legislature to adopt laws prohibiting racial discrimination,[85] the roots of the problem were firmly entrenched. Racial discrimination continued to spread with impunity until the end of the 1950s, particularly in the cities of southwestern Ontario, between Toronto, Hamilton and Windsor (Mosher 1998: 109-110; Tarnopolsky 1982; Head 1975; Alexander and Glaze 1996). Without doubt, the city with the worst reputation was Dresden. Ironically, it had been the terminus of the Underground Railroad in the 1800s.[86]

The prejudices and stereotypes that were the staple of racist practices in the second half of the 20th century still find their expression today, albeit in more discreet ways. One study, dating from 1978, revealed that 16 percent of Ontarians admitted to harbouring extremely racist feelings, whereas 33 percent said they were "somewhat racist" (Henry 1978). In 1989, a Government of Canada report revealed that the evidence clearly indicates that a significant number of Canadians have racist attitudes or, as a survey concluded are "racist in their hearts" (MCC 1989). These attitudes led to a broad range of behaviour, from insults and threatening acts to the writing of hate propaganda against specific racial groups, physical violence or the destruction of property (MCC 1989: 7). Racism has, at times, been brutally manifested against Blacks in Ontario, as Stephen Lewis (1992) pointed out in a special report prepared for then Premier Bob Rae.

> It is the Blacks who are being shot, it is Black youth that is unemployed in excessive numbers, it is Black students who are being inappropriately streamed in schools, it is Black kids who are disproportionately dropping out, it is housing communities with large concentrations of Black residents where the sense of vulnerability and disadvantage is most acute, it is Black employees, professional and nonprofessional, on whom the doors of upward equity slam shut.

The Ontario Court of Appeal has recognized (*R. v. Parks*; *R. v. Williams*) that anti-Black racism is systemic and affects all institutions, including the criminal justice system. It emphasized that "anti-black racism is a grim reality in Canada.... There are those who expressly espouse racist views.... There are others who subconsciously hold negative attitudes towards black persons based on stereotypical assumptions.... Finally, and perhaps most pervasively, racism exists within the interstices of our institutions."

In a voluminous report produced in 1995, the Commission on Systemic Racism in the Ontario Criminal Justice System examined admissions into prisons, detentions pending trial, the legal processing of accused parties, dynamics within courthouses, constants in determining sentences and racism within prisons. The report concluded that systemic discrimination exists with regard to Blacks at all levels of the criminal justice system

(Ontario 1995). Recently, the Supreme Court of Canada formally recognized that racism can influence the attitudes of jurors in a trial.

> Racist stereotypes may affect how jurors assess the credibility of the accused. Bias can shape the information received during the course of the trial to conform with the bias.... Jurors harbouring racial prejudices may consider those of the accused's race less worthy or perceive a link between those of the accused's race and crime in general. In this manner, subconscious racism may make it easier to conclude that a black or aboriginal accused engaged in the crime regardless of the race of the complainant (*R. v. Williams*: para. 28).

Given that the majority of immigrants are members of communities that were racialized in North America, their living conditions are immediately affected by racial discrimination. According to several studies (Goldhurst and Richmond 1973; SPCMT 1983; OHRC 1983), members of racial minorities are subjected to wage discrimination when we compare their income to White workers, regardless of their level of education. In 1984, the report from the Commission of Inquiry on Equality in Employment stressed that members of racial minorities have a higher unemployment rate, earn less and are less likely to find a job than are other immigrants. More specifically, the Abella report (1984: 83) concluded that Black men, particularly those who came to Canada after 1970, occupied a lower economic standard than did other men. In 1985, Henry and Ginzberg (p. 53) stressed the existence of substantial racial discrimination that impeded the ability of racial minorities to find jobs.[87] Another study carried out with 199 organizations from the private and public sectors revealed that members of racial minorities were confined to employment ghettos such as health and social services and that they were underrepresented in education, administration and professional fields.[88] In 1991, the Office of the Commissioner for Employment Equity noted that stereotyped perceptions of racial minorities and not attitudes or productivity often influence hiring and promotion decisions (Ontario 1991: 9).

Racism in the workplace is sometimes manifested through harassment, insults and mockery that can seriously violate the human rights of targeted persons. *Naraine v. Ford* was an overwhelming example of direct discrimination in which Mr. Naraine was subjected to racial harassment from the moment he was hired in 1976 until he was fired in 1985. Harassment took the form of graffiti on the walls, unpleasant comments, mockery and insults. Evidence submitted in court established that the workplace was a poisoned environment for all persons of colour working there and that there was a very high degree of explicit and direct racism. This is surely not an isolated case. Unions have themselves, at times, adopted anti-immigrant or racist positions with a view to protecting corporate interests. Today, many unions are attempting to counter racism and discrimination among their membership. But despite the years spent voting in policies and resolutions, writing reports and delivering speeches, there is still an enormous discrepancy between union principles and the behaviour of members and their leaders (CLC 1997a).

Racial discrimination is also manifest in wage disparities between White workers and workers of colour, the latter systematically finding themselves on the bottom rung of the employment ladder, as several studies have shown. In a recent analysis of census data from

1991, Peter Li (1998: 125) established that incomes of immigrants who belonged to a visible minority were $2,710 below the national median and those of visible minorities born in Canada fell $4,894 below the median. By comparison, the incomes of White immigrants were $4,171 above the median (the national median being $23,740). Even when adjustments are made for differences in education, age, sex, occupation, area of employment and duration of work, disparities that are uniquely attributable to skin colour and place of birth remain very distinct and place visible minorities $3,000 below the national median. Li concludes that all non-White groups, whether they are visible minorities or Aboriginal peoples, are, on average, paid less than the national average; in most cases, the gaps are substantial. Factors that make it difficult for immigrants of colour to get well-paying jobs include the refusal to recognize degrees and training qualifications obtained in countries in the South (Rajagopal 1990) and discrimination against persons who have strong accents or difficulty expressing themselves in English (Scassa 1994). A study carried out in 1997-98 by Harvey et al. revealed that immigrants who were members of visible minorities did not overcome their struggles after their initial period of settlement in Canada and continued to experience long-term, socio-economic disadvantages. Moreover, immigrants who arrived in the country after 1981 experienced higher rates of unemployment, lower wages and were more likely to belong to low-income categories.

The socio-economic situation of immigrants really deteriorated between 1986 and 1996, as confirmed by a Statistics Canada study (Badets and Howatson-Leo 1999) that revealed a considerable decrease in the probability of finding a job (from 81 percent in 1986 to 71 percent in 1996 for men and from 58 percent to 51 percent for women). The authors stress that immigrants had much more difficulty finding jobs in 1996 than their counterparts in the 1980s. Moreover, the unemployment rate of new immigrants living in Toronto was as high as 14 percent compared with six percent for men born in Canada. However, there are seven times as many immigrant men than young Canadians holding university degrees. This reveals that other factors, apart from competency and merit, influence the hiring decision. There is an even greater imbalance in the case of immigrant women, as we will see.

Sexual Discrimination and Patriarchal Appropriation

Above and beyond the fact that sponsored women have to deal with racism and discrimination which take on specific forms for women as we shall discuss later, they immigrate into a society where the sexual inequality and patriarchal subordination of married women have been entrenched for years. Indeed, the Canadian legal system has historically supported the appropriation of the work, body and sexuality of women by men in the context of marriage as well as on the labour market. This historical relationship has had many lasting effects, and women still find themselves in positions of subordination, both in marriage and society in general, since inequality in one sphere reinforces inequality in the other. From the time they arrive in Ontario, immigrant women are at once cast, despite themselves, into a set of social relations that are based on the appropriation of women.

This dynamic is the product of state policies that, historically, have allowed men to control women, particularly in the "private" sphere of the family. Indeed, the patriarchal appropriation of women by men in marriage is the very essence of the modern social contract in which the state obtained the right to exercise the collective power of men in exchange for almost unlimited power to reign over the wife and family (Pateman 1988). In

the last century, in Ontario, married women were deprived of their "legal capacity" as, once they were married, they were treated like minors and lost the right to carry out common legal acts such as writing their own wills or signing contracts with other parties. Moreover, a woman lost all rights to her property, both moveable and immovable, and had to follow her husband wherever he chose to live. If a woman worked outside the home, her husband had the right to appropriate her wages; it was also up to him to decide which religion and what kind of education the children would receive. It was not until 1884 that the legal capacity of married women in Ontario was recognized as being the same as that of husbands (Hahlo 1973). For many years thereafter, the legal incapacity of married women served to justify sexual discrimination against women, who could no more vote or submit their candidacy in an election than they could sit as members of the Senate or on a jury, or gain admission into the liberal professions. This situation was to continue until the decisive victories for women's rights won in the first half of the 20th century (Eberts 1985: 183).

Married women, nevertheless, had to wait another half century before their rights to physical and sexual integrity were recognized with regard to their husbands. In fact, it was not until 1983 that the *Criminal Code* was amended to put an end to the immunity that married men enjoyed against any charge of rape laid by their wife.[89] Prior to 1983, Canadian law imposed a legal relationship of sexual subordination on women and would refuse a woman any legal recourse against sexual violence committed by the man who had legally appropriated her body and her life (Boisvert 1993: 279; Néron 1997). In so doing, the law explicitly supported conjugal violence through legislative provisions that were manifestly discriminatory in nature.[90]

The epidemic proportions of conjugal violence testify to the fact that the dynamic of patriarchal appropriation remains a dominant characteristic in the family. A major study carried out by Statistics Canada among 12,300 women in 1993 established that 29 percent of women were or are victims of conjugal violence, either at the hands of a husband or an ex-husband. Of the women who were married at the time of the study, one in six said she had been a victim of violence inflicted by her current husband (Statistics Canada 1993). While many violent men have attempted to excuse their behaviour by pleading that they lost control, several studies have established that conjugal violence is a tool and that men use it to maintain their power and control over "their" women (Dankwort 1988; Gondolf 1985). Moreover, the Canadian legal system has a history of tolerating, excusing or legitimizing conjugal violence (Côté 1996a), as Madam Justice Wilson stated in the *Lavallée* decision (p. 872). "Far from protecting women from it the law historically sanctioned the abuse of women within marriage as an aspect of the husband's ownership of his wife and his 'right' to chastise her."

Since the mid-1980s, federal and provincial policies have emerged with a view to "criminalizing" conjugal violence and introducing a "zero tolerance" approach with regard to this type of crime, but the reform process remains very slow in the criminal justice system. The tangible results of these changes are not yet making themselves felt and, in certain cases, initiated reforms have backfired, making women even more susceptible to victimization (Martin and Mosher 1995; Canada 1993). Indeed, there is every indication that the criminal justice system in Canada is still incapable of protecting women against a violent

husband, as evidenced, for example, by the tragic death of Arlene May of Carlingwood, Ontario. She tried several times (unsuccessfully) to obtain protection from the police and from the courts. After she was killed, the coroner's jury presented a report containing more than 200 recommendations for improvements to the processing of conjugal violence complaints.[91]

While programs and services that support women in their efforts to achieve greater autonomy should be defended, various levels of government are cutting budgets and reducing services (OAITH 1998). These measures have the effect of imprisoning women in their own home and excluding them from effective citizenship, as the Ontario Association of Interval and Transition Houses (OAITH) specified in the report it presented to the Special Reporter of the United Nations (UNO) on Violence Against Women (OAITH 1996). Any reduction in the public funding of services has repercussions that are particularly negative with regard to services offered in French, especially since the Franco-Ontarian community is only now starting to catch up in establishing its right to services in French. Thus, in 1998, there were only five women's shelters managed by Francophones that could provide services in French to Francophone women at all times, from the beginning to the end of a crisis situation (Brunet 1998).

Moreover, while the last 20 years have seen reforms that generated greater economic justice for women in the family (de Sausa 1994), marriage remains an institution within which women continue to take on the bulk of the housework, and the care of children and other family members, including their husband, free of charge. It is estimated that 52 percent of married women work full time and take on full responsibility for housework, that 28 percent take on most of the work and that work is shared in only 10 percent of households. Moreover, women spend twice as much time as men taking care of the elderly in their family (CLC 1997b: 43). However, current policies regarding budget cutbacks in public services, notably in health and social services, will undoubtedly increase the amount of unpaid work that women will have to take on (Armstrong 1997).

The "traditional" division of labour within a marriage has long-term effects on women's safety and economic well-being that could prove to be particularly detrimental when women separate from their husbands. It is estimated that 45 percent of marriages end in divorce (Eichler 1990: 60). We know that the economic consequences that follow the break-up of a marriage are radically different for men than they are for women. According to a well-known American study, women and children experience a drop of 73 percent in their standard of living after a divorce, whereas men see their standard of living increase by 42 percent (Weitzman 1985: xii). While there are no Canadian studies on this subject, it is believed that the situation is the same in Canada (Eichler 1990: 61). On this count, Statistics Canada estimates that the income of the average debtor ex-husband at twice that of his ex-wife (Galereau 1992). In addition, two thirds of women and children who receive alimony payments live below the poverty line (this proportion climbs to 75 percent if we take unpaid alimony into account), but only 16 percent of men who have to pay alimony are in the same situation (FPTFLC 1991: 3). The National Council of Welfare estimates that 57.2 percent of single mothers are living under the poverty line and this proportion goes up to 80 percent for those who have two children under seven years of age (NCW 1997: 84-85). Moreover, the Supreme Court recognized in the *Moge* ruling that divorce

brings about a spectacular degree of impoverishment for women. The Court attempted to attenuate the consequences of this pattern by recognizing the compensatory nature of alimony between spouses (see Diduck and Orton 1994). However, there is reason to doubt the effectiveness of this means of recourse: it effectively sends women running back to their husband to remedy the effects of systemic discrimination that depend as much on the traditional familial division of labour as on the social structuring of women's work (Sheppard 1995).

Indeed, the participation of women in the labour force is still fraught with systemic sexual discrimination, as is reflected in their wages. Women who work full time earn 67 percent of the wages men earn on average; this proportion falls to 64.9 percent in the case of immigrant women (Statistics Canada 1995: Table 9.16). While data show an increase in wages compared to past years, this increase is attributable to the fact that the average wage of men fell following the restructuring policies implemented during the 1980s rather than a significant increase in women's economic wealth (Day and Brodsky 1998: 7). Moreover, if we examine the annual average income earned by all women, whether or not they work full time, we see that they earn only 55 percent of the average income of men (Statistics Canada 1995: Table 9.13). This proportion is the same for immigrant women and women born in Canada. Although proactive measures, such as the passing of the *Pay Equity Act, 1987,* brought a decided improvement for women working in some areas, especially unionized women employed by large employers or in the public service (Armstrong 1997: 122), the consequences of free trade, globalization and the privatization of public services will undoubtedly increase pressures to lower wages. Moreover, most women are still stuck in job ghettos, mainly in the service sector. They often have to accept part-time and temporary work; they are rarely unionized and, consequently, are subjected to minimal labour standards with wages under the poverty line and no provision for maternity or parental leave (Fudge 1991). Women's poor wage and labour conditions mean that men can, individually and collectively, continue to appropriate women's labour through the institution of marriage and compulsory heterosexuality (Roberts 1990).

The recent decision by the Government of Ontario to force social assistance recipients (even single mothers) to work in exchange for their benefits will dramatically increase the degree of exploitation among women and runs the risk of bringing about generalized pressure to lower wages (Swanson 1997: 149; Moscovitch 1997: 80). Moreover, recent changes to social assistance have introduced the presumption of de facto economic interdependency between "spouses"—re-introducing the spouse in the house rule whereby two persons of the opposite sex who share a dwelling are presumed to be supporting each other. This illustrates the government's intention to send women back to situations in which husbands are deemed responsible for their well-being. It also places them in a state of dependency in the private sphere and does not recognize their right vis-à-vis the state.[92] Social assistance is not the only social security scheme that does not favour women. Recent reforms in employment insurance that increase the number of hours required to be admissible for benefits have a discriminatory impact on women and young people (NAWL 1996).[93] Also, the current pension plan favours private savings through RRSPs, while the majority of women do not have the means to contribute significantly to these kinds of pensions (Donelly 1993).

Immigrant Women: At the Intersection of Racism and Sexism

Most immigrant women are at the intersection of the collective experiences of the group "women" and the group "persons of colour." In this situation, the dynamics are both unique and difficult, resulting from individual prejudices, systemic discrimination and the neo-colonialist policies that have marked relations between Canada and countries in the South.

Historically, immigrant women have been victims of sexist immigration policies instituted between the end of the 19th and the beginning of the 20th centuries—when women were considered inept from a legal point of view, were not recognized as "persons" under Canadian law and could not function as free agents. Indeed, Canadian immigration policies were developed based on patriarchal principles, using sexual discrimination as their ballast.

Women of colour certainly experienced their share of racism in Ontario. Testifying to the discrimination she experienced in her youth between World War I and World War II, Violet Blackman recounts: "You couldn't get any position, other than as a maid, regardless of who you were and how educated you were...because even if the employer would employ you, those that you had to work with would not work with you" (Brand 1991: 37). Until the end of the 1940s, Black women could not study to be nurses or work as nurses in Canada since hospitals refused to hire them. It was not until the 1950s that the government began to allow nurses from the Caribbean to immigrate to Canada, and even then only those who showed "exceptional merit" and superior qualifications were granted entry (Calliste 1993). As Daenzer remarks (1997: 277), this policy was steeped in prejudice and was an insult to the dignity of Black women. Although today women of colour represent a major proportion of Ontario's nursing staff, they continue to experience direct discrimination (Das Gupta 1996: 81). They are often treated inequitably by administrations, are deprived of some privileges reserved for White nurses, are often perceived as being aggressive or rebellious, and are disciplined for problems created by hospital administrations (Collins 1999).

Prejudices against women of colour vary according to the era and the ideological constructions of the traits that have been projected on them. Black women have long been defined as Aunt Jemimas (the Black maid whose image appeared on syrup containers). As bell hooks (1981) explains, this representation, propagated for decades through various television shows, is the prototype of the submissive domestic worker who respects Whites, is attached to their children and whose sexuality poses no threat within a household. This image contributed to the definition of Black women as people who were "naturally" destined for domestic work, a representation that coincides with the demands of the workplace and reinforces the privileges of White men and women (Stasiulis 1987). Arab women have also been subjected to paradoxical representations. As Naima Bendris (1993: 142) explains, Arab women are seen as submissive, reclusive, passive and veiled, but also as princesses, concubines and sexual slaves in a harem; they are never represented as independent, creative women, capable of asserting themselves.

For women of colour, racism is experienced everywhere, every day (Thornhill 1993). Young girls experience it from their very first days at school. One Black girl, interviewed in 1987, tells of a fight she got into in the sixth grade at a west Toronto elementary school. Another student had called her a "nigger" and she hit him. But, in the end, she was the one who had

problems with the principal. Another girl, interviewed at the same time, felt she was treated like a common criminal, observing that she was left out of activities because she was Black. Yet another girl was mocked in class and told she spoke like a "Paki." She told interviewers that the first time she heard that racial slur was in elementary school (Douglas 1987).

It is rare these days for White adults to express these kind of racist feelings openly, except perhaps with regard to women who are clearly positioned as subalterns, such as domestic workers (Cohen 1987). On the whole, racism is subtle, as Shirley Chan (CCNC: 87) explains: "Racism here is not overt like it is in South Africa. It's insidious in our culture. You're supposed to be equal, but you really don't have equal opportunities if you're not White. I think women have a really hard time too. You have to be twice as good." Women also experience racism through their husband's or children's experiences when they are harassed by the police, for example, or by the experiences of other people in their community. Rajani Alexander (1993: 124-125) recounts that one day she heard two people make this comment regarding three elderly people sitting on a public bench: "Look at those niggers sitting in the sun with nothing to do." She writes:

> Tears were welling up in my eyes, and the heat spreading over my face long after the speakers moved out of sight in another direction. Sometimes that incident seems very far away, and others, sharp and clear in my mind. It did not occur to me but I felt it was about me. I felt pain and confusion—and anger.

As we saw in Part II, the sponsored women who participated in this project made ample mention of the racial discrimination to which they were subjected. As Catherine says:

> *As far as wages go, skin [colour] and all that, yes, yes [there is racism]. Moreover, I am the only woman of colour where I work. Sometimes people say that we are paranoid, us Blacks, but it isn't true. We can see it in a person's expression. Sometimes there are little off-the-cuff remarks that people make to you at work. You feel attacked. From a salary point of view also, I was underpaid for a few months for what I do.*

Sometimes discrimination comes from work colleagues or students in the same class as a woman of colour. In some cases, it comes from White women, as Louise relates. Louise works in an organization that provides support to women.

> *But sometimes I found I had problems with the women [I was taking care of]. Some of them would come in and then they would see me.... I find that difficult and there were those who didn't want me to come near them. They would say to the others: "What is that Black woman doing here?"*

These prejudices have concrete repercussions on the living and working conditions of immigrant women. Historically, Black women have been excluded from some professions and the majority of immigrant women have represented a pool of cheap, unskilled and easily exploited labour. In the same way, during the 1950s, 57 percent of Italian immigrants were

confined to working in the manufacturing sector while 28 percent worked in the service industry, mainly in domestic work (Iacovetta 1986: 210). Das Gupta (1996: 81) emphasizes that immigrant women of colour are still confined to subaltern jobs in the manufacturing sector, the restaurant industry, domestic labour and the service industry, most notably in health and social services. Her study (Das Gupta 1996: 81) on immigrant women workers in the clothing industry and in nursing indicates that these women are subjected to poor working conditions and that they hold positions that are paid less than those of their White colleagues. More specifically, she states:

> There is evidence of over-representation of nurses of colour in heavier units which are not considered the pinnacle of nursing. For instance, in a number of large hospitals, 70 per cent of the nurses in the veterans wing and in the long-term care unit are nurses of colour. Most nurses in leadership positions e.g., head nurses, team leaders and charge nurses, are White and hospitals are overwhelmingly run by White management.

Das Gupta also lists (1996: 35-40) the various ways in which an employer's or administrator's racism manifests itself with regard to these women workers, who were ridiculed and treated as scapegoats, excessively monitored, marginalized, treated like children, allotted tasks in a biased manner, under-employed, deprived of promotions, separated from other workers, held suspect when they showed signs of solidarity and accused of making themselves out as victims. Ronnie Leah (1991: 172) stresses that there are high concentrations of immigrant women, particularly those who are not White and do not speak English, in the most poorly paid sectors, in the most unstable jobs and in the least unionized of any traditionally female job classifications. She notes that historically, immigrant women and women of colour have worked in sectors with low rates of unionization. According to Geneviève Cloutier (1995), immigrant women from visible minorities make up one of the most disadvantaged groups in Canadian labour. Moreover, a study on employers, submitted during the drafting of federal legislation on employment equity, indicates employment equity laws have generally contributed to reducing the wage gap between White men, White women and men from racial minorities. But, women from racial minorities have not been able to catch up and are having difficulty obtaining management-level positions because of the interaction between sexual and racial discrimination (Locke et al. 1995).

Paradoxically, women of colour, regardless of whether they are immigrants or born in Canada, are more educated than White women born in Canada (Boyd 1992). A recent Statistics Canada study established that four times more immigrant women hold university degrees than do young Canadian women (Badets and Howatson-Leo 1999: 24). Data on the annual average income of immigrant women and women of colour seems to contradict the idea that they are victims of discrimination in the labour market for this very reason. In absolute values, immigrant women of colour earned more than White women born in Canada. Their median incomes were $15,088 and $15,037, respectively. However, White women born in Canada work part-time more often, are less educated and less likely to live in major cities, where wages (and the cost of living) are higher. If we readjust the sums earned

by immigrant women of colour according to these socio-economic variables, we find that they are earning an average income of $13,446. As Monica Boyd writes (1992: 307):

> Once adjustments are made for the socio-economic difference between groups defined by gender, visible minority status and birthplace, a pattern of below average earnings becomes readily apparent for the foreign-born and especially for persons who are members of visible-minority groups and/or women. The message is clear: if all groups had the same socio-economic profile, being foreign-born, a member of a visible-minority group, or female would be associated with lower earnings. Further these disadvantages accumulate such that foreign-born visible-minority women would receive the lowest wages and salaries of all groups.

Even though immigrant women are more educated than women born in Canada, they experience enormous difficulties in entering the labour force. In 1996, the employment rate among immigrant women was 51 percent, compared to 73 percent for women born in Canada. This proportion represents a decrease in relation to 1986, when the rate stood at 58 percent. Conversely, according to the authors of five Statistics Canada studies, the rate for women born in Canada has markedly improved since its meagre 65 percent in 1986 (Badets and Howatson-Leo 1999: 22). The new immigrants of the 1990s were the big losers with regard to the job market. Not surprisingly, the rate of unemployment among immigrant women in Toronto is extremely high, recorded at 21 percent (compared to 14 percent for immigrant men and six percent for women and men born in Canada) (Badets and Howatson-Leo 1999: 23). Even among immigrant women who hold university degrees, the employment rate has remained very low, at 58 percent (compared to 86 percent for women who were born in Canada and hold a university degree) (Badets and Howatson-Leo 1999: 24-25).

Wage discrimination against immigrant women of colour is also reflected in the fact that 21 percent of immigrant women live under the low income cut-off (a situation experienced by only 16 percent of women born in Canada) (CLC 1997b: 123). Data on the average income of immigrants can be misleading, since it does not necessarily reflect the disparities between different groups of immigrants. For example, women from Southeast Asia have a very low rate of participation in the labour force, and close to a quarter of them are hired in the manufacturing sector. By comparison, women from the Philippines have the highest rate of participation in the labour force; almost two out of five hold a university degree and 29 percent work in the health sector (Boyd 1992: 303). There are also very large disparities among different groups of immigrants. Many immigrants from the Philippines are domestic workers, nurses' aids or workers in the manufacturing sector. Women from the Indian sub-continent are found usually in professional fields and the service and manual labour sectors (Stasiulis 1997: 6).

Two factors seem to be important in determining immigrants' professional activity: the recognition of the degrees and work experience they acquired in their country of origin, and their access to language training programs. As Roxana Ng (1992: 22) observes, lesser levels of education seem to be recognized for women more readily than are university degrees, PhDs and professional qualifications (see also Anderson and Lynam 1987: 87). Latin American women seem to be confronted with very particular difficulties in this regard

(Romero-Cachinero 1987), as is the case with Francophone African women, as we see later on. The failure to recognize qualifications has very serious consequences since it brings about unemployment and exclusion from the labour force; in other cases, women who are very qualified are limited to working in areas where their expertise is not fully used. Their self-esteem suffers and Canadian society incurs a considerable loss as it is deprived of their talents.

The fact that many immigrant women do not have access to language training may also be partially explained by the difficulties they confront in their attempts to obtain well-remunerated jobs. Until 1992, the federal government provided no financial assistance to members of the family class who wished to participate in these programs, most notably sponsored women. The belief was that it was up to sponsors to take care of the integration needs of wives and fiancées (Boyd 1997: 142), and these programs should be directed at family members most likely to participate in the labour force (Paredes 1987). As Nahla Abdo explains (1998: 49), this policy meant that women tended to find less attractive jobs that paid less but demanded long hours of work. Threatened with legal challenges, the federal government reformed this policy by suspending all funding allocations for language training programs for newcomers, and downgrading standards to achieve a "bottoming out" of equality between men and women (Boyd 1997: 157). The failure to recognize qualifications and difficulties in accessing language training programs traps a number of immigrants in a vicious cycle: they cannot find work, since they lack "Canadian experience," but they are ineligible for the training programs offered through Employment Insurance because they have not yet worked.[94]

In a study conducted among French-speaking African women living in Toronto and Montréal, professor Gertrude Mianda (1998: 39) observed that despite a level of education that should have given them access to a job corresponding to their qualifications in their country of origin, African immigrants did not find work easily. Mianda (1998: 40, 49) stresses the fact that Africans feel they are victims of racial discrimination, that integration in the work milieu is an ongoing struggle and that being Francophone constitutes yet another handicap in their economic integration. A report completed in 1997 by the Communauté des femmes africaines noires francophones (COFANF) indicates that access to employment in Ontario is particularly difficult for African Francophone women. The authors of this report interviewed some 20 women who were social assistance recipients: most of them had practised a profession before their arrival in Canada (teacher, nurse, manager, lawyer, doctor, etc.), but on their arrival in Canada, all found it impossible to integrate into the labour force. The reasons cited by these women included failing to recognize their qualifications, required Canadian work experience, the need for additional training, the need to be fluently bilingual, and racial discrimination (COFANF 1997: 5). After a series of interviews with workers and a community forum which brought together approximately 50 participants, the COFANF observed that even when women obtained equivalencies for their degrees from the Ministry of Education, employers did not seem to attach a great deal of importance to these equivalencies. Women experienced difficulties in accessing training programs because they had never worked and, therefore, had not benefited from Employment Insurance. Those who had taken training courses studied in a field other than their original field of expertise and, often, experienced difficulties caused by the lack of

available child care, the prejudices of other students (men and women) or financial difficulties. The problem of child care led to other problems since private day care was too costly for mothers. They would entrust their children to a friend or to another child who was too young to baby-sit. The Children's Aid Society subsequently came out with reports categorizing African immigrants as bad mothers (COFANF 1997: 14).

As we saw in Part II, in many cases the Francophone immigrant women we consulted during this study experienced a downward shift in their professional category when they immigrated to Ontario. Most held unstable or part-time jobs; they were often contract workers and did not have any social benefits. Many found themselves excluded from the labour force, even though they had taken various training courses. All these elements forced them into a life of poverty, marginalized from society. This position exacerbated their dependency on their husband and made them vulnerable to abuses of power. Sometimes, they were excluded from the labour force because they were Francophones, as Mathilde points out.

> *I could not look for work right away because of the language, I had to learn the English language first.*

In addition to these difficulties, immigrant women are deprived of the support and interdependency network they could count on in their country of origin (Mvilongo-Tsala: 241). These informal networks, made up of their immediate family or surrounding community (friends and neighbours), were essential means of socialization for these women and part of their survival strategies. Teofilovici points out (1992: 435) that when they arrive in Canada, many immigrant women come from a context in which they were able to share their maternal responsibilities with an extended family and institutional network. Suddenly, they are parachuted into a situation where they must take on all of the parenting responsibilities and look out for the welfare of their family. They do not have a chance to get over the grief they feel over the loss of this network, or they must delay the grieving process as the needs of the family are so great and the first years are exclusively devoted to resolving urgent problems. Mianda (1998: 41) emphasizes that African women lose their traditional support network, of other family members, which leads to an increase in domestic work. In this context, she observes, Black women not only experience discrimination, humiliation and some loss of dignity but are considerably weighed down with domestic work. Culturally, domestic obligations are a woman's responsibility but since they do not have any assistance, they are often overloaded. Immigrant women who are new to the country must resolve many very basic problems, such as difficulties in accessing familiar food, needs regarding health, education, clothing, religion and leisure—they take care of integrating all of these worlds, except their own (Teofilovici 1992: 435). Immigrants also have to come to terms with having their values questioned and must ponder how much they wish to assimilate into society, reject change or integrate into new social norms (Mvilongo-Tsala: 239; Teofilovici 1992: 436). This problem is all the more delicate in Ontario, where non-native Francophone families constitute minorities not only in relation to Franco-Ontarian society, but also in relation to Anglophone society (Mvilongo-Tsala: 243). As Linda Cardinal writes (1994: 81), "the identification of new Francophone immigrants with ethno-cultural persons prevents them from identifying with the Francophone community since the

identity model currently taking shape represents a unique phenomenon in Franco-Ontarian history [translation]."

Immigrant women who are struggling with conjugal violence are often confronted with particular difficulties, over and above those generally experienced by women. Racism within the police force and the justice system are an impediment for some women, whereas others experience pressures from family or community but do not file complaints in these circumstances (Shinet and Kérisit 1992). As we have seen, abusive husbands often threaten women without permanent resident status with deportation (Pope and Stairs 1990). As El Mansouri (1997) writes, "men use this argument to keep their women and frighten them [translation]."

Last, we should note that the neo-liberal policies adopted by the Conservative Government in Ontario, undoubtedly, have a disproportionate impact on immigrant women. Indeed, several recent studies indicate that social services and integration programs for immigrants have undergone drastic cuts and that almost half may be eliminated entirely (Mwarigha 1997). These restrictions will have an even more detrimental effect since social and community services designed for the dominant society already respond poorly to the needs of immigrants given the racism that permeates the values they propagate, the structure of the programs they provide and their hiring practices (Tator 1996: 152). This situation is all the more difficult since many agencies and services for women who are victims of conjugal violence are not meeting the needs of immigrant women (Nduwimana and Home 1995).

Moreover, in 1995, the Ontario government abolished the *Employment Equity Act, 1993*, which was designed to eliminate hiring obstacles and promote women, racial minorities, those with disabilities and Native people. In addition, the Ontario Anti-racism Secretariat was abolished, funding to the Ontario Human Rights Commission was reduced and the impact of neo-liberal policies in the area of employment was deeply felt. These regressive measures only serve to exacerbate the vulnerability of racial minorities (Trickey 1997: 113).

Conclusion

Immigrant women constitute a group that, historically, has been the victim of discrimination in Ontario, and they remain disadvantaged in many regards because of the policies and practices that exacerbate their social and economic inequality. They are directly or indirectly, personally or as members of specific communities, victims of racial and sexual discrimination as well as of anti-immigrant and sometimes anti-Francophone prejudices. As such, they should benefit from effective protection of their equality rights as stated in section 15 of the Charter.

Federal and provincial governments must give this reality due consideration and, at all costs, avoid implementing policies that are likely to exacerbate the socio-economic and legal disadvantages of immigrant women. They must avoid adopting discriminatory regulations and those that appear neutral but have a discriminatory effect. Moreover, they must take concrete measures to prevent discrimination against immigrant women and, as much as possible, take action to assert their equality rights.

2. IMPACT OF SPOUSAL SPONSORSHIP ON THE RIGHTS OF IMMIGRANT WOMEN

To what extent is the Canadian sponsorship system prejudicial to immigrant women or a factor in perpetuating their inequality? In this chapter, we try to answer this question by examining how spousal sponsorship—where a man sponsors his wife or fiancée—affects the position of women in the family and their interactions in the public domain. More specifically, we look at women's recourse to government services.

The system has various features which, although officially neutral, may discriminate against women. These special "distinctions" are enshrined in government policies (federal and provincial), and either apply only to sponsored persons or have a particular prejudicial effect on women sponsored by their spouse.

First, we deal with the sponsor's "undertaking of responsibility" for the basic needs of the sponsored woman. This relationship, required by law and federal regulations, is based on the concept of women being dependent on, and subordinate to, their husband. We then examine the process of "privatization" of sponsored women and the resulting restrictions compared with the socio-economic rights usually enjoyed by permanent residents and Canadian citizens. The analysis deals specifically with provincial provisions regarding the rights of sponsored persons to receive social assistance in Ontario. The third focus is the situation of women awaiting permanent resident status, who live in limbo for months or years, until they obtain their "papers." Throughout this period, they feel deeply insecure because they are still not entitled to the minimum health care services or education, and find themselves in an extremely vulnerable position vis-à-vis their husband. Finally, even when they officially become Canadian, sponsored women only enjoy "second-class" citizenship.

This analysis reveals that the specific characteristics of the sponsorship system discriminate against immigrant women and are detrimental to their equality rights as well as their human rights.

"Undertaking Responsibility" for Women and Their Subordination to Marital Authority

Sponsorship is based on the concept of an individual "undertaking responsibility" for the sponsored person. As we saw in Part I, the sponsor formally undertakes to provide for the sponsored person's essential needs for a maximum of 10 years. Essential needs include housing, food, clothing and any other item or service required for daily life. More specifically, sponsorship obliges the sponsoring husband to reimburse the government for social assistance payments paid to his wife. Whatever the state of the marriage or the financial situation of the sponsor, he becomes personally responsible for the basic socio-economic security of the sponsored person.[95]

Major Symbolic Power Conferred on Husbands/Sponsors

The right to family reunification belongs first and foremost to Canadian citizens or permanent residents, not to sponsored women. The former initiates the application by

making a formal commitment to the Canadian government in the sponsorship undertaking and completing and submitting the required documentation. Moreover, the text of the sponsorship undertaking, refers to "the sponsor of an application to the Minister of Citizenship and Immigration to bring the immigrant and any dependants to Canada as permanent residents." This implies that it is the sponsor applying to "send for" his sponsored wife. He is also the person entitled to lodge an appeal if the application is rejected. In order to become established in Canada, the sponsored woman is wholly dependent on her husband's willingness to embark on, and complete, the sponsorship process.

Most women submitting an application for permanent residence from outside the country have hardly any contact with an immigration officer since Canada has very few immigration offices abroad, with the exception of certain countries in Europe and Asia. What contact there is will be in writing, in a language the woman hardly speaks, if at all. As a result, she will probably have trouble communicating or obtaining information, like Elizabeth, who applied in West Africa, where the only office is in the Ivory Coast. If the application is made from Canada, the sponsored woman will experience quite different problems. She may have to plead for the right to remain in Canada on compassionate grounds, or she may be in an illegal situation, afraid of being sent back or threatened with the withdrawal of sponsorship by her husband. This no doubt explains why it is usually the husband who deals with immigration authorities. Moreover, he usually speaks the language, may be more comfortable with Canadian bureaucracy and is probably the one who deals with all things administrative.

The fact that the husband undertakes the immigration procedure automatically invests him with major symbolic power, which magnifies his actual power within the spousal relationship. In many cases, women do not fully understand how they got to Canada. However, they do know it was their husband who had the power to bring them here. As Esther explains:

> *I remember very well that they told me I'd...that I wouldn't have any problems staying in Canada because I was married to a Canadian and that the Canadian would sponsor me.*

Later, the sponsor will be able to capitalize on this power to exert control over his wife, telling her:

> *I brought you here. It's thanks to me that you're here. I do everything for you and I can cut you off if I want* (Carole).

Catherine adds:

> *So the person who sponsors you becomes a kind of earthly god in your life.*

It is important to emphasize that until 1997, consent of the sponsored person was not required in the sponsorship undertaking between the respondent and the government. Indeed, none of the women interviewed for this study had formally signed a sponsorship

agreement—thus resulting in their spouses "undertaking responsibility" for them. As Louise explains:

> *For me, sponsorship was nothing more than him asking for me to come. I didn't realize that I had to be under his responsibility.*

Either the government assumed that the sponsored woman had consented, or it regarded her consent as of no importance. The fact remains that this practice made sponsored women dependent on their husband and restricted access to government benefits, when no effort was even made to obtain their consent. In fact, everything proceeded as if the government and the husband agreed on the terms, and as we see in Part IV, there is every reason to believe that this practice is not justifiable from a legal standpoint. Politically, it is even less acceptable since this form of "stipulation for the benefit of another" turns the sponsored immigrant woman into the object of a transaction. Since 1997, sponsored women have had to sign the sponsorship agreement, but we wonder whether this signature denotes informed and voluntary consent. Do immigrant women have any choice in agreeing to these conditions if they want to come to Canada to join their husband? Sponsorship and its negative consequences are the price they pay for family reunification, as Esther implies:

> *I didn't ask for my husband to sponsor me. We had to. Otherwise, I couldn't stay. I would not have been able to stay.*

As we saw in Part II, the Canadian immigration service provides little information to sponsored women. When the sponsorship application is submitted in Canada, women usually have no contact with immigration offices until the interview for permanent residence. One immigration law specialist consulted during this study told us: "There is no place where women can obtain the information they need or hear a clear explanation of their rights. They have to find this information for themselves." People working with immigrant women report that many sponsored women do not understand the nature of the legal relationship created by sponsorship.[96] As Lucie explains:

> *For me, it was only the steps he took in order for me to come to Canada. I didn't realize that I would...well, that this would create a certain dependency and that he would be the one making all the decisions.*

Sometimes, the woman's lack of information about her status and rights is due to the control exerted by her husband who may conceal the documents or never show them to his wife, in the hope that she will remain ignorant. Furthermore, immigrant women are often unaware that they may apply, themselves, for permanent residence as independent immigrants. Women with some education and job experience could easily do so. Unfortunately, immigration officers do not encourage them to submit their own application, recommending instead that the husband sponsor them. As one lawyer explains, "even if both spouses are highly educated and could both apply as independent immigrants, it is usually the man who applies and the wife who is sponsored. This often happens when the man is already in Canada."[97] Yet the status of "sponsored wife" is far less advantageous than that of independent immigrant.

The fact that the husband takes care of the immigration application gives him power over the formal process and the final approval of his wife's application. Some men abuse this power to gain more control over their wife or to dominate them completely. The husband may fail to complete the required documentation, delay telephoning the immigration official or "forget" to send a cheque for the processing fee, thus keeping his wife in a position of dependency. Rachel waited many months in an illegal situation before her husband would give her the $975 for her permanent residence visa.

> *I am dependent on my husband in the meantime and I have to wait until he gives me the $975.*

In some cases, the sponsor may openly abuse his power. Louise's husband put off going to the Immigration Canada offices.

> *He didn't want to bring me along and he kept saying it was he who was sponsoring me. He could do whatever he wanted and if he didn't feel like going to Immigration, he just didn't go.*

The special relationship immigration officers forge with the sponsor makes that individual seem omnipotent to the sponsored person because he holds the key to her immigration to Canada.

The Sponsorship Debt

Sponsorship thus puts the sponsored immigrant woman in "debt," because it is her husband who "gives her the right to come to Canada." Not only is the sponsorship undertaken by the husband, she also owes him something, as Catherine told us.

> *That's how he puts it. He gave me the papers to come to Canada. I said: "But I have rights elsewhere!" But, when men start talking and criticizing, the more you say, the more aggressive and condescending they become.*

In other words, some men miss no opportunity to remind their wife that it is thanks to them that they are in Canada, and that they have been able to take a training course, find work, make new friends, etc.

This indebtedness may undermine the marriage because it makes it hard for women to refuse the husband's demands or disobey orders. Some men use this argument to assert authority, like Lucie's husband.

> *He said I had to listen to what he said because if he hadn't brought me here, would I have the friends I'd made? Or, if he hadn't brought me here, would I be taking my X course?*

If she disagrees with what her husband does, his response is: "Look, I brought you here. It's thanks to me that you're here. I do everything for you and I can cut you off if I want." It's

always a question of blackmail. Some women assimilate the "lesson" and conclude that they owe their husband respect and obedience, like Judith, who tells her husband:

> *Because you sponsored me, that's why I have to do it. That's why I have to accept this or that.*

And for some women, it even appears that the debt of sponsorship will never be paid off. Catherine said she feels indebted "for life."

Creating an Imbalance of Power in the Couple

Sponsorship traps women into unequal relationships where they legally "depend" on their husband for support. A man may use the official "dependency" of his wife to justify his wish to control her life totally, including managing "his" wife's income. This was the case with Mathilde.

> *I had no say. He controlled all the money. I arrived and I gave him the cheque. He took the cheque to the bank. He controlled everything. I didn't have anything that belonged to me.*

As Élizabeth Montecinos (1995), director of Maison Flora Tristan in Montréal, explains: "When an abusive man feels invested with major power under a 'provider' agreement like the sponsorship arrangement, he regards the woman as his exclusive property, and this may explain his controlling behaviour" [translation].

Some men take advantage of their status as sponsor and make their wife spend all the time doing housework or cooking. Some expect them to cook for the extended family and friends. And some try to stop their wife from working or socializing with friends, in case they acquire the taste or the means to become autonomous. Louise told us:

> *I couldn't go out. If I went to the grocery store, he knew where I was going and he knew how much time it would take.*

She added:

> *I couldn't work. I couldn't go to school.*

Danielle told us of a woman friend who has "a knife over her head" and cannot do anything without her husband's permission.

> *She can't move because her husband gave her family money and all that. He's the one who brought her here. He's the one sponsoring her. He's the one who signs everything.*

In many cases, the sponsorship relationship upsets the balance of power within the couple, allowing the sponsor to be the only one able to work, have a social life and, sometimes, total control over the wife's income.

The dependency is even stronger if the sponsored woman speaks no English, because in Ontario she will have trouble entering the job market. If she is a woman of colour, she will have to contend with racism and is sure to encounter systemic obstacles that keep women—especially immigrant women—at the bottom of the pay scale. Sponsorship exacerbates this dependency. Danielle reports that it was the sponsorship that introduced a dynamic of dependency and subordination into her marriage, although the relationship in their home country was one of equals.

> *In my country, he didn't have a chance to make me feel dependent on him and since he was given the chance on a silver platter, he abused.*

This dependency is sometimes particularly dramatic.

> *I couldn't even buy a bottle of nail polish without asking his permission. He gave me $5 a month as pocket money.... I spent the whole winter without a coat.*

Increased Vulnerability of Women

Because they are usually ill informed about their rights by immigration officials, sponsored women may believe their husband has the power to withdraw the sponsorship even when this is no longer possible. (The situation of women waiting for permanent residence status who may actually be deported if their spouse withdraws the sponsorship is discussed later.) As one respondent explained:

> *I didn't know I had rights as a landed immigrant. I thought he had the power to send me back home since he had sponsored me.*

Also, men often convey incorrect information. Some emphasize that they have the power to "send back" the wife to the home country.

Because sponsored women depend on their husband, they are very vulnerable to abuses of power and the control strategies used by violent men. As a Crown prosecutor says ((Gravel 1995: 18-19):

> These women who have come to join husbands already admitted as immigrants[98] find themselves in a situation of legal, psychological and financial dependency. Their vulnerability, which is linked to their status and their ignorance of their rights, increases their isolation and puts up a barrier to denouncing the violence of which they are the victims [translation].

Women interviewed for this study told us that in many cases, they were obliged to put up with different types of abuse from their husband. As one reported:

> *If you give him a hard time, what does he do? He withdraws the residence and then you can imagine the consequences.... You're better off keeping your month shut.*

Threats of withdrawing sponsorship and deportation have forced many women to tolerate physical and psychological violence as well as economic abuse. The fact that they have to endure such abuse has been detrimental to their physical and mental health. Some have sunk into deep mental distress. Two respondents reported they had attempted to commit suicide.

Under the Rule of Family Government

When a sponsorship undertaking is engaged in a spousal context, women are symbolically situated in a relationship vis-à-vis their husband. In this situation, women are under a kind of guardianship that subjects them to the husband's authority. This message, though only implied in the *Immigration Act* and its regulations, is sometimes clearly expressed to women by immigration officers. As Judith explains:

> *Yes, in terms of sponsorship, they explained to me that for 10 years, I would remain under the responsibility of my husband, and that there were things that I couldn't do. For example, my husband...now, I call him the boss, or the leader. That was not the exact word they used. They said that for 10 years, I had to remain with my husband, my spouse. Your spouse will know everything about you. You cannot make any decisions without your spouse. For instance, you cannot leave the country, decide to move from Canada to live in another country, and your husband must provide absolutely everything. You cannot turn to the government for help for 10 years. The husband has signed papers saying that he will provide everything you need for 10 years. So your husband takes care of absolutely everything. That's what they explained to me, and I accepted.*

The fact that this woman refers to her husband as "boss" or "leader" clearly shows that the husband's spousal sponsorship strengthens his traditional role as head of the family.[99] One could say that sponsored women are subject to a "family government" (Dhavernas 1978) exercised with a greater or lesser degree of benevolence by the husband. The sponsor may run his domestic kingdom based on arbitrary criteria that are subject to very little control. This phenomenon led one respondent to report that she feels she is *at her husband's mercy*.

In the last 30 years, Canadian law has been reconstructing itself on the principle of sexual equality and human dignity, and not on the paradigm of patriarchal appropriation. However, the legal order imposed by sponsorship "privatizes" married women and, as a result, subjects them to the authority and control of their husband. Women are once again relegated to the private sphere because the man is the one officially dealing with the authorities, and ultimately responsible for ensuring her "essential needs."

The Sponsorship Regime Heightens the Inequality of Women Within a Marriage

Spousal sponsorship is likely to heighten gender inequality between spouses. As Rachel says:

> *There is always this idea of a contract that will create discrimination within a couple. Well I feel the same way about sponsorship.*

Indeed, when a woman is sponsored by her husband, the "undertaking of responsibility" coincides with the historical pattern of patriarchal appropriation of women. Rachel calls this

discrimination because the law puts sponsored women in a relationship replicating the model of male domination in marriage.

In short, when a man sponsors his wife, he is handed a powerful tool for increasing his power and control within the couple. Government policies for sponsorship constitute a lever men can use to strengthen, consolidate and legitimize the traditional relationship of gender-based control in marriage.[100]

As Roxana Ng (1998: 11-18) points out:

> The official view of the immigrant family, according to Canadian immigration policy, is that of one "independent" member on whom others depend for their sponsorship, livelihood and welfare. It can be seen that the immigration process systematically structures sexual inequality within the family by rendering one spouse (usually the wife) legally dependent on the other.

This legal construction of the spousal relationship is easily abused by some men and lends itself to strategies for controlling women.

In a society where the law has, historically, sanctioned men's control of women, and where the inequality of women and discrimination against them continue to be systemic and systematic, such a policy is not neutral. On the contrary, this government policy reinforces the inequality and disadvantaged status of women and, therefore, has a discriminatory effect. According to Roxana Ng (1998: 19), "immigration policy creates and reinforces immigrant women's subordination in Canada and reinforces this dependence. This is systemic sexism." Indeed, many respondents made a clear link between sponsorship and the subordination of women to the authority of their husband, like Sarah.

> *This sponsorship business should be banned because it gives power to people who are already macho to begin with, you know, it's really giving men power.... They're macho and you give them even more power, it's like giving them a weapon to hurt you.*

Discrimination and Violation of Human Rights

The sponsorship undertaking entered into by the respondent with the federal government (document IMM1344B (01-2000)E) stipulates the obligations taken on by the sponsor in exchange for the "privilege" of bringing his wife or other close relatives to Canada. The document implies that the Canadian government allows the respondent to bring in an immigrant woman who would not otherwise qualify for residence in Canada, in exchange for his commitment to provide for her essential needs[101]: "I understand that the family members will be admitted solely on the basis of their relationship to the sponsor and that they do not need to have the financial means to become established in Canada." In return, the respondent (and his spouse)[102] agree "that the family member will not need to apply for social assistance/welfare." Thus, "in exchange" for his right to family reunification, the

sponsor must agree to ensure that the sponsored person does not become a burden on the state. More specifically, he acknowledges in the sponsorship undertaking that any amount received by the sponsored person in the form of social assistance becomes a debt he has to repay: "All social assistance/welfare paid to the sponsored relative or any dependents becomes a debt owed by the sponsor and the co-signer to the Minister." The ministry explicitly reserves the right to prosecute the respondent for repayment of this debt. It is also stipulated that other programs may be added to Schedule VI of the *Immigration Regulations*, which specifies the programs for which a sponsored person may not receive support. In this way, the respondent becomes party to an open obligation that could prove to be far greater than the one to which he originally consented, if consent is the appropriate term under the circumstances.

The sponsor promises that "the sponsored relatives will not need to apply for social assistance/welfare" (document IMM 1344A (01-2000)E). Hence the obligation of undertaking and the ensuing consequences on the spousal relationship, as discussed earlier. We cannot help noticing the somewhat coercive terms used in the clause of the sponsorship undertaking, which imply a degree of control or supervision of the conduct—even life choices—of the person sponsored by the respondent.

At any rate, this undertaking makes the sponsor personally responsible for ensuring that the sponsored person does not apply for public assistance. He undertakes to cover all of this person's essential needs, namely, as specified in the undertaking, "food, clothing, shelter, and other goods or services, including dental care, eye care, and other health needs not provided by public health care" to all Canadian citizens and permanent residents of Canada. As seen earlier, this definition is not exhaustive and could easily be added to the list of other types of basic needs the government could refuse to cover. Indeed, until recently Citizenship and Immigration Canada refused to provide funding for sponsored women to take part in language programs, on the basis that they were sponsored and not destined for the labour market. In addition, special rules regarding old age pensions apply to immigrant women who have been in the country for less than 10 years (Boyd 1989). Last year, a joint parliamentary committee proposed that immigrants pay for English or French courses. This illustrates the type of program or service from which the government sometimes withdraws where certain categories of immigrants are concerned.

The sponsorship undertaking thus embodies a "privatization" of the obligation to provide assistance in dire need to poor people because it places that burden on the sponsor. This affects the autonomy, security and dependency of women in relation to their sponsor, as much as their equal right to the protections and benefits normally accorded to any human being in terms of socio-economic rights. Sponsored women are actually deprived of some attributes of citizenship even after they have officially become Canadian citizens.

Restricted Access to Social Assistance

The sponsorship undertaking directly affects the sponsored woman's right to receive social assistance. To understand these provisions fully, we must refer to provincial laws and regulations. Policies respecting social assistance, health and education have always been under provincial jurisdiction, as seen in Part I. Lorne Waldman (1992: 13) explains that the

right of sponsored dependants to obtain social assistance and other social services varies according to provincial regulations. However, certain provinces have regulations that affect the right of sponsored dependants to obtain social assistance. Although the federal government has endeavoured to assure a degree of uniformity in public assistance standards across Canada,[103] the provinces now have more latitude in defining the rules and eligibility conditions for social assistance.

In Ontario, a sponsored person formerly enjoyed full rights to social assistance if in need. Like other recipients, the individual had to devote "reasonable efforts" to finding financial support from other sources, in particular the sponsor (s. 13 of the current regulations). However, the economic recession of the early 1990s caused a sharp rise in the number of people registered for social assistance (75 percent increase between 1990 and 1994). The social assistance budget increased from $3.6 billion to $6.3 billion (Grey 1998: 39). The media launched a witch hunt focussing on poor people, the unemployed and certain minority groups. In Toronto, the Somali community was the object of a hostile campaign which (mistakenly, it was later found) linked East African warlords with Somali single mothers on welfare.

Stereotyping and prejudice against immigrants added to the stigmas already borne by welfare recipients to create an extremely antagonistic climate. In this context, the provincial government of the day proceeded to introduce draconian reforms. In August 1993, it tabled amendments to social assistance regulations that would have reduced the amounts available for sponsored persons to a maximum of $50 per month.[104] At the same time, it decided to sanction sponsorship undertakings for their full term of 10 years, whereas previously it had been taken into account for five years. In theory, each case was supposed to be assessed individually to determine whether the sponsor could defray the amounts not provided by social assistance. However, in practice, most sponsored persons would have been deprived of social assistance. These measures triggered widespread consternation in the immigrant community, and the resulting uproar forced the provincial government to reverse its decision. It amended the regulations in December 1993, and these are basically the regulations still in force today (Morrisson, n. p.): a special regulation for "immigrants, refugees and deportees."[105]

In 1997, the Ontario government adopted the *Social Assistance Reform Act* (SARA), which profoundly altered the province's welfare legislation.[106] Although the sponsorship rules remained unchanged, section 74(I)g(viii) of the *1997 Ontario Works Act*, adopted under the SARA, entitles the government to formulate regulations based on a person's "status" in Canada. In fact, on April 1, 1998, the government published *Ontario Regulation 134/98* in the *Ontario Gazette*. Referred to below as the Regulation, this specified the general application of the *Ontario Works Act* and extended the previous rules applying to persons for whom an undertaking had been given under the *Immigration Act*.

Under Regulation 134/98 (s. 51(2)b), sponsored women may receive social assistance even if they are awaiting permanent residence, provided they have begun the formalities for obtaining residence.[107] According to our sources, the application has to have been accepted "in principle," which may take many months. Persons formally excluded from receiving

social assistance are those subject to a deportation or removal order,[108] as well as visitors (unless they have applied for permanent residence or claimed refugee status) and tourists.[109]

However, sponsored women are not entitled to the full benefits normally granted to people receiving social assistance. The provincial regulation takes the sponsorship undertaking into account and stipulates that a sponsored person, not living with the sponsor, will be subject to a *minimum* reduction of $100 on the welfare allowance.[110] This deduction applies even if the spouse refuses or cannot afford to provide for the sponsored person's basic needs (unless the sponsor is also a welfare recipient).[111] The government apparently presumes husbands contribute to the basic needs of their wife, even if no financial support is forthcoming from the respondent. Moreover, this $100 deduction per month is a bare minimum. The administrator may decide to reduce benefits by a higher amount or refuse any benefits to a sponsored resident if it is felt that the spouse is able to provide additional financial assistance and the sponsored individual is not making "reasonable efforts" to obtain the spouse's support.[112]

Note that in cases of conjugal violence, there is no reduction in benefits. When a sponsored permanent resident is able to prove she has suffered, or been threatened with, spousal violence of a physical or sexual nature, she is exempt from the minimum $100 deduction (s. 51(3)). The Ministry may ask her to prove she has been the victim of spousal abuse by submitting a report from the police station where she filed a complaint, or a letter from a community worker or health worker. Administrators have discretionary powers to grant the requested assistance when the woman is unable to furnish the required proof. While these exceptions are commendable, they are not sufficient to safeguard women who are victims of spousal violence. As we have seen, sponsorship often means women are not fully aware of their rights since they have minimum contact with the authorities, and the husband usually takes charge. A woman may not know where to turn for support in the case of conjugal violence, or may be unable to obtain support because there are not enough services in French (Brunet 1998), and she has trouble communicating in English. She may also hesitate to report the violence. She may be afraid it will affect her immigration status or destroy her marriage, or she may fear being ostracized by her family or community. She may also feel she would be "betraying" her husband by denouncing him to the White authorities. Furthermore, she may be anxious about the very real difficulties of proving she is the victim of conjugal violence.[113] In short, many sponsored women who are victims of spousal violence very likely do not avail themselves of this special rule exempting them from the automatic reduction in their social benefits.

Apart from this special situation for spousal violence, social assistance administrators also have to determine the allowances for sponsored beneficiaries, based on their evaluation of the financial resources of the sponsor (directive 13.0-5). This gives officials a great deal of latitude in deciding whether to reduce a sponsored woman's social assistance cheque by more than the minimum $100 per month. This discretionary power definitely leads to wide variations among individuals and regions in the actual amount a sponsored woman may receive in social assistance. In January 1997, during "mega-week," the Harris government turned over most responsibilities for social assistance to municipalities. This is likely to result in social policies that are even less advantageous for sponsored immigrant women.

Once municipal administrations are obliged to finance most costs directly from their own limited revenue, they will probably cut costs by deducting more from social benefits paid to sponsored immigrant women and men. Indeed, social assistance administrators are already encouraged to reduce the number of persons registered, and this multiplies the abuses suffered by people who hardly ever have the means, the information or the time to combat these injustices (Grey 1998).

Discrimination in the Recognition of Economic and Social Rights

No doubt the rule automatically reducing social benefits to sponsored women by $100[114] is direct discrimination based on a woman's immigrant status. Indeed, the *Social Assistance Regulation* explicitly states the rule for treating sponsored persons differently, without justification or explanation, in terms that result in these women being formally deprived of the right to equal benefit of the law. Considering the socio-economic, legal and political conditions of immigrant women, this difference in treatment very likely heightens their existing inequality and has a discriminatory effect within the meaning of section 15 of the Charter.

In fact, social benefits are well below the poverty line. They were already at this level in 1995 when the Conservative Government of Ontario reduced social assistance amounts by 21.6 percent. The basic socio-economic rights of people on welfare have been violated as a result.

> The material deprivation of the basic necessities of life caused by a 21.6% cut in already inadequate social assistance rates in the province, and the consequent psychological, physical and social insecurity and want which the cuts will create, violate the right to life, liberty and security of the person of the individual welfare recipients who are affected (CRO 1996b).

A single mother with one child receives $957 per month. However, in Toronto, the average rent for a one-bedroom apartment is $661 (Grey 1998: 39). A sponsored woman in this situation would have her cheque reduced by at least $100, leaving her with less than $200 per month with which to feed and clothe herself and her child. It is impossible to provide for these basic needs on such a small budget. Clearly, this reduction in already inadequate benefits is likely to be disproportionately detrimental to sponsored immigrant women.

We could argue that the combined effect of the 1995 cuts to allowances for welfare recipients and the automatic deduction from social benefits for sponsored women is so prejudicial that it violates the rights to freedom and security guaranteed in section 7 of the *Canadian Charter of Rights and Freedoms*. This states that "Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice." Although the question has not yet been decided by the Supreme Court of Canada, it is reasonable to assume that this section seeks not only to protect each individual from arbitrary actions by the state but also to recognize that the state has an obligation to assure the minimum social and physical well-being of the population (Jackman 1988; Morrisson 1988; Lamarche 1991). Moreover, in the *Singh* decision (p. 207), Madam Justice Wilson emphasized that the right to security comprised not only the right to physical integrity but also the provision of the elements required to sustain it. In the *Irwin Toy* case (pp. 1003-

1004), the Supreme Court noted that the economic rights essential to human life may be protected under section 7.

The right to security may thus be interpreted as guaranteeing each person the right to benefit from a government safety net providing adequate assistance to those in dire need.[115] Furthermore, the reduction in social benefits for sponsored immigrant women likely endangers their right to freedom. A person with no access to a minimum income for food and housing is not free; the individual loses personal autonomy and is excluded from the main places and activities of life in society (Jackman 1988).

Section 7 of the Charter states that the right to life, liberty and security of the person may not be violated in such a way as to infringe the principles of fundamental justice. We could argue that reducing social assistance by applying the minimum deduction of $100, irrespective of whether the sponsor has actually fulfilled the obligations for support, is arbitrary and unjust. It penalizes sponsored persons solely on the basis of their immigrant status, without taking into account their actual living conditions. How can we justify automatically reducing benefits for immigrants who are sponsored without even ascertaining whether or not they are actually receiving support from their sponsor? They have no control over their sponsors' capacity to pay this support, or over their willingness to do so. In short, they are being penalized for the conduct of a third party over whom they have no control. And the price many sponsored women pay is high: it imperils their daily survival and their most fundamental rights.

Unfortunately, the lower courts do not seem ready to acknowledge that section 7 of the Charter imposes these obligations on the government. In the *Masse* case, 12 welfare recipients supported by the Federation of Women's Teachers Associations of Ontario contested the 21.5 percent reduction in welfare payments imposed in 1995. They alleged that these cuts violated section 7 of the Charter by depriving welfare recipients of the minimum income required to cover fundamental needs such as food and housing. Their application was rejected by the Ontario Court of Justice for various reasons, one being that section 7 of the Charter does not confer the right to minimum social assistance or other "economic" rights. The Court clearly indicated that it was not appropriate for it to intervene in social policy decisions, which should remain a matter for the Legislative Assembly. In so doing, it marked a return to the judicial deference that characterized constitutional law until the late 1970s, which allowed the courts to sit back and do nothing as the government practised discrimination and injustice. Unfortunately, the Court of Appeal for Ontario refused to hear an appeal of this decision. It is hoped the Supreme Court of Canada will soon have an opportunity to examine this important issue.

In the meantime, we could interpret the scope of the rights to freedom and security of the person in section 7 of the Charter by taking into account the international obligations entered into by Canada over the last 50 years. The *Universal Declaration of Human Rights* and the *International Covenant on Economic, Social and Cultural Rights* clearly state that governments have concrete obligations concerning the gradual attainment of economic and social rights. By ratifying the Covenant in 1976, Canada and the provinces formally undertook to respect the right of all individuals to social security (section 9), a standard of

living that includes adequate housing, food and clothing (section 11), the best possible state of physical and mental health a person may attain (section 12) and education (section 13), as well as to implement policies that would actually ensure these rights were achieved. Martha Jackman (forthcoming) states that, together, the terms of the Universal Declaration and the International Covenant oblige Canada to ensure that Canadians enjoy the full protection and benefit of their fundamental socio-economic rights, which are essential for human dignity and equality, and constitute the foundation for the enjoyment of more traditional civil and political rights.

To recognize those rights, the government should reform the existing social assistance regime. In the absence of such reform, the regulations regarding sponsored women on welfare will result in both direct and indirect discrimination on sex and other grounds. The rights at issue are fundamental human rights, namely the right to adequate nourishment, housing and clothes. In 1995, for example, a class-action suit was commenced challenging the Regulation (*Jeevaratram et al.*), claiming that reducing the benefits paid to sponsored persons violates the right to equality in and before the law, as well as the right to equal benefit of the law, stipulated in section 15 of the Charter. This discrimination is alleged to be based on race, age, sex, national origin and immigration status.

Restricted Access to Social Assistance and Increased Vulnerability of Women

Remarks by some of the women interviewed for this study show that many sponsored immigrant women believe they have no right whatsoever to social assistance. As Rachel said:

> *My problem is I'm not entitled to anything.*
>
> *Q: But if you left your husband, for example, do you think you would be entitled to social assistance?*
>
> *A: Well, considering I'm under sponsorship for 10 years, no, I don't think I would.*

The message imparted to these women by Canadian immigration officers and the official documentation on sponsorship is that sponsored women should not apply for social assistance. Moreover, the fact that there are special rules applying to sponsored persons and these persons are not entitled to the full amount (except in exceptional cases) reinforces the general perception that sponsored women are not really entitled to social assistance. Because they are, or believe themselves to be, deprived of government assistance when in dire need, their autonomy and independence are affected detrimentally.

Clearly, women sometimes feel they are being treated like children because their relationship with the state and with public institutions is mediated by their husband. As Ingrid says:

> *I didn't have the right to social assistance. It was just my husband. I am still... I am a dependant. When he asks for social assistance, it's as though I were his child.*

Other women regard not being entitled to social assistance as an obstacle to their autonomy and freedom of movement, like Lucie.

> *I couldn't say: "Well, OK, I don't feel like staying at the house. I am going to go and live on social assistance." No, that would never have worked. It would never have worked because I was sponsored by someone, and that person had to take care of me.*

Under the impression they are not eligible for social assistance, some women put up with abusive situations because they are unable to move out and live somewhere else.

> *You won't get into a fight with him because he is your sponsor, you see; he can kick you out any time. And then when things are going badly at home, you have no recourse, you can't turn to welfare. There, they will tell you that you have to see the person who is taking responsibility for you.*

The way social assistance policies interlock with the "undertaking of responsibility" inherent to sponsorship has the potential to reduce greatly the autonomy of a sponsored wife. Women are at much greater risk of falling victim to spousal violence, because they cannot escape the abusive relationship without risking homelessness or destitution. The exemption for women who are victims of spousal violence comes rather late in the day, after the dependency created by the sponsorship has made them more vulnerable to violence and they have already become victims. And it is clearly of no use to women unaware of its existence.

As a result, the provincial policy on social assistance for sponsored immigrant women not only increases immigrant women's socio-economic disadvantage, it also makes them more vulnerable to the controlling strategies of a dominant husband, by making it more hazardous and expensive for women to leave their husband. This policy may also make sponsored women more vulnerable to racism and harassment in the workplace because they cannot rely on the same safety net as other workers in Ontario.

The Privatization of Sponsored Women

The sponsorship undertaking is basically designed to transfer responsibility for some of the sponsored woman's basic needs from the public authorities (federal or provincial government) to a private agent (the spouse/sponsor). The government is normally responsible for providing an aid of last resort to people in dire need, notably in the form of social welfare payments. But the sponsorship undertaking transfers this responsibility to an individual. For someone sponsoring a family member, this is a high price to pay for family reunification, as we will see later. For the woman sponsored by her spouse, it means being placed even more firmly in the grips of "family government." Indeed, the sponsorship agreement she has signed with her spouse stipulates that the sponsor may fulfil his obligations either by giving money to the sponsored person or with a contribution in kind, by providing her with shelter, food, clothing, etc. The sponsored woman, therefore, has no access to the autonomy—however relative—that comes with the opportunity to receive full welfare payments and use the money for her own priorities and aspirations.

The privatization of obligations regarding support, assistance and care has certainly increased since neo-liberal policies were introduced in Ontario and the rest of Canada, reducing government involvement in a wide range of sectors. When the Conservative Government of Ontario came to power in 1995, it emphasized the role of the family and the "community" in caring for children and looking after people who were sick or had a disability. Premier Harris was quick to declare that families would do better if women stayed home to look after their children.

Women have a specific experience of this move to privatization because they are often the ones who have to step in and perform the work no longer done by the public sector in caring for the sick, the elderly or children. Moreover, women themselves are being increasingly "privatized" in the context of family law, as the courts are strengthening the obligation for mutual support between ex-spouses well beyond the bounds of marriage. Even after a marriage breaks down, a woman remains linked to the man from whom she is trying to separate, and the government still sees her as part of a couple (see *Thibaudeau*). The Supreme Court, in its recent decision in the *Bracklow* case, confirmed that marriage leads to long-term obligations between former spouses that may extend well beyond a divorce, especially if one spouse has a disability. In light of this decision, Michael Valpy (*Globe and Mail* 1999a) commented that the husband will no longer be able to wave the divorce certificate and transfer his responsibility to the state. Family law sends women back to ex-husbands for financial or other needs in no way associated with the marriage. While it is commendable that the courts recognize more clearly and sanction the maintenance obligations arising from marriage and are in favour of compensating women for the detrimental effects suffered as a result of divorce (particularly those resulting from the traditional division of roles during the marriage), we wonder whether the current trend is not placing excessive burdens on ex-husbands to provide the security and support that was formerly the responsibility of the state.

The privatization of socio-economic maintenance measures is itself problematic and becomes particularly dangerous in a sponsorship situation, because the government may refuse to provide any social assistance or support under any program, on the grounds that the sponsor is able to undertake and provide assistance in kind, if not financial help, to the sponsored person. This rule places persons subject to it in an arbitrary situation, where conduct and criteria vary with the individual, depending on the values, means and interests of each sponsor. Policies with this orientation eradicate social standards that were generally accepted or felt to be legitimate, and had only been achieved after a century-long struggle for the recognition of human rights and equal rights for women. In the resulting situation, it is more difficult to resist abuse and exploitation, because each person has the onus to file legal proceedings against the family member who has not fulfilled the obligations (which are increasingly extensive) in terms of care and support. Moreover, it places an unfair burden on the sponsor who is held personally responsible for the vagaries of the job market, racial and gender-based discrimination, and any other factor likely to result in the loss of financial autonomy for the sponsored relative.

Insecurity and Vulnerability Associated with the Wait for Permanent Residence

In theory, an application for permanent residence has to be submitted outside Canada. In such a case, the sponsored immigrant woman to benefit from all the rights of permanent residence as soon as she arrives in the country. In practice, many women only begin the formalities once they are already in Canada, having entered the country with a visitor's visa, as students or with a work permit, for example. They may have met or married their husband here and decided to stay. In such cases, they have to obtain permission to apply for permanent residence "on compassionate grounds," as we saw in Part I. Of the 16 women interviewed for this project, eight had applied in these circumstances. This "exceptional" procedure is so common that the government has produced a host of information and forms for spouses submitting an application from within Canada (CIC 2000). Of the 15,000 applications on compassionate grounds processed by the Canadian government in 1997, 11,000 were submitted by wives (or husbands) already in the country (CIC 1999).

This type of procedure is so common that it actually forms an integral part of the sponsorship system—one that is particularly problematic. The problems are twofold: at this stage, women have no access to health insurance, work permits, study grants, social welfare or other programs until their application for permanent residence has been approved "in principle" by the federal government. In addition, until they obtain permanent resident status, their husband may decide unilaterally to withdraw sponsorship, thereby putting them at risk for deportation.

Exclusions and Restrictions Regarding Access to Health Care, Education and Jobs

Ontario used to respect the right of all individuals to receive the medical care required by their state of health but, since March 31, 1994, people who are not yet permanent residents are no longer entitled to health insurance. On this date, the provincial government introduced a new regulation excluding people staying in the province "temporarily" from the benefit of health insurance. Most of those affected by this change were students and foreign workers (with exceptions), as well as those who had applied for permanent residence (Ontario 1994). To begin with, they have to undergo medical examinations, after receiving the forms, which may take many months. Only when the federal government has notified the Ministry of Health of Ontario in writing that the applicant has undergone the required medical examinations does the individual theoretically become eligible for health insurance. However, the applicant has to wait another three months from the date on which the Ministry of Health receives this notice before being entitled to public health service benefits. In other words, even if a sponsored woman has been living in the province for months or even years, she now has to go through the three-month waiting period imposed in 1994 for all "newcomers" to the province. This three-month interval only begins on the date on which the permanent residence application is approved "in principle."

Thus, as was emphasized by a coalition of organizations reporting to the UN on violations by the Canadian and Ontario governments of the rights in the *International Covenant on Economic, Social and Cultural Rights*, "a person could be residing in Ontario perfectly legally, working and paying taxes, waiting for the next point in the (often very slow) immigration process, for months and even years before qualifying for OHIP" (Tie 1998).

This rule could have tragic results because women unable to afford private health insurance could be deprived of essential medical care. One of the women consulted during this study says:

> *When I think of other problems like health, I remember all the formalities. The fact that we were waiting meant I wasn't entitled to health insurance. At the beginning, it was for the child who was 3 then and for me, we weren't entitled. My husband got angry and finally, they gave it to the child, but not to me. And then, I still remember, because you're not working, you get sick. How can you get treatment? I remember one night I had terrible stomach cramps.... You have to go to hospital. When you get there, they ask for your card. If you haven't got one, you can't be treated...I could have died because the formalities took so long.*

Remember too the story of Amira, who found herself in a desperate situation having to pay more than $1,200 to cover hospital expenses for the one day she spent in hospital giving birth. In her case, the irony was that she did not have permanent resident status because Citizenship and Immigration Canada required her to undergo a medical examination involving X-rays, which she could not have—because she was pregnant. The only aspect of the 1994 provincial reform that makes any compassionate concessions is the one that exempts pregnant women from waiting for X-ray results before they become eligible for health insurance. However, they are still subject to the three-month waiting period. The coalition regards this rule as particularly discriminating against pregnant women, who are obviously unable to wait months for medical care. Nine people (*Irshad et al.*) joined forces to contest this discriminatory rule before the courts; one claimant was an immigrant who was pregnant when she arrived in Ontario and did not have access to health insurance before, during or after her delivery. These individuals alleged that the provincial regulation violated the equal rights guaranteed by section 15 of the Charter.[116]

In addition, a person applying for permanent residence in Canada is not able to obtain a work permit until the application has been approved "in principle" by the federal government. Many of the women consulted for this study reported having to wait a long time for a work or study permit. This situation puts women under a lot of pressure, increases stress and makes them more vulnerable and dependent vis-à-vis husbands and unscrupulous employers who employ them illegally. Even once they have obtained their work permit, their social insurance number begins with the numeral 9 until they become permanent residents. As a result, potential employers are aware of their precarious immigration status and they are often turned down for jobs. Says Catherine:

Finally, we should emphasize that women who are neither Canadian citizens nor permanent residents are not eligible for federal government loans or grants under the *Canada Student Financial Assistance Act* (1994, c. 28, s. 2) or for provincial government grants under the Ontario Student Assistance Program. At a time when tuition fees are increasing by leaps and bounds, it is obvious that without access to a loan and grant program, it is hard to pay for higher education. Added to this, as already mentioned, is the fact that sponsored women

awaiting permanent residence are not entitled to social welfare until their application has been approved "in principle."

Because of these restrictions and constraints, many women perceive the period spent waiting for permanent resident status as a time when their horizons are blocked and they are trapped.

> *I couldn't work, couldn't study. These are all things that make you feel trapped, paralyzed. You want to do things but you can't. You're stuck. You can't do anything.*

Blackmail and the Threat of Deportation

The waiting period also puts the sponsored woman in an extremely vulnerable position in relation to her husband because he can withdraw his sponsorship undertaking at any time before she obtains her permanent residence visa. An immigration law specialist reports that one husband withdrew his sponsorship three times in order to blackmail his wife and exert more control over her. After the third time, the immigration services decided they would no longer be party to his schemes. As a result, the woman had to leave the country.

The jurisprudence contains examples of connivance, whether deliberate or not, between the immigration authorities and violent men, as the *Lata* case illustrates. A Canadian sponsored a young woman he had married while visiting the Fiji Islands. From the start of their relationship, he had been violent and dominating, tearing up her immigrant visa and passport, and forcing her to sign false statements for immigration officers. Once she arrived in Canada, the woman went through a nightmare of assaults, separations and reconciliations, and endless formalities with the Canadian immigration services in order to obtain permanent residence. When she finally obtained approval in principle of her permanent residence application, and just before a final decision was made, her husband withdrew his sponsorship. Despite the tragic circumstances of this case, the Federal Court decided that Ms. Lata was not entitled to remain in Canada.

> Unfortunately for Ms Lata, at the time, November 1993, she did not meet the requirements for admission as a permanent resident. At that time, her husband had withdrawn his sponsorship, and she was thus unable to comply with section 6 of the *Regulations*, which requires, inter alia, that a member of the family class seeking permanent resident status be supported by an undertaking of the sponsoring member of the family (*Canada v. Lata*, p. 44).

A man who sponsors an immigrant woman who is already on Canadian soil has his power greatly enhanced by the sponsorship system, because he has the right to withdraw his sponsorship undertaking if he feels like it. This is a powerful lever for anyone seeking to control his wife, as this woman explains.

> *If you give him a hard time, what does he do? He withdraws the residence and then you can imagine the consequences.... You're better off keeping your month shut.... Then, when you try to assert yourself, he's used to an easy prey, he can talk, he can talk over you.*

Those who work with immigrant women confirm that women who do not yet have permanent resident status are at greater risk of spousal abuse. This was explained by the director of Maison Flora Tristan, a shelter serving a clientele of immigrant women in Montréal: "While they wait for permanent residence, these women have to put up with threats, blackmail and physical violence. The violent sponsor uses his power to trap women with the threat of expulsion from Canada" (Montezinos 1995: 31). The Metro Toronto Committee Against Wife Assault (MTCAWA) reports that if a sponsored woman suffers physical or emotional abuse, she may be afraid to leave her husband or call the police, because she fears her husband will withdraw his sponsorship (MTCAWA 1994). The Parkdale Community Law Services (PCLS), which specializes in immigration law, also notes that this imbalance of power is exacerbated by threats of deportation from the violent husband.

The threat of deportation silences women, forcing them to submit to dominating husbands, and sometimes even to spousal violence. Many authors emphasize the importance of expulsion threats for sponsored women. According to Mosher and Martin (1995: 26), the greatest fear for people with uncertain residence status is intervention by the immigration authorities. Women in this situation are often afraid of being deported if they call the police. Frequently, these fears are well founded: some women do risk being deported, especially if they call the police and the violent spouse withdraws his sponsorship. But in many cases, sponsored women are legally entitled to remain in Canada and are unaware of this.

The threat of deportation is even crueller if the woman has children born in Canada and is afraid she will be permanently separated from them if she is deported. Pregnant women or women with children, who are Canadian-born, are especially vulnerable because they fear being permanently separated from their children (PCLS 1998: 4). Sometimes, the husband not only withdraws his sponsorship and endangers his wife's status in Canada but also tries to obtain custody of the children, pleading that it is in their "best interest" to remain in Canada. Prejudice and ignorance about certain developing countries may lead judges to believe him. As a rule, the courts do not recognize an immigrant woman's right to remain in Canada just because her children are Canadian unless there are exceptional circumstances, for example, if she is a single mother.[117] But if the father is able to look after his children, she may be subject to deportation or expulsion, and lose access to her children. In all cases, the threat of deportation or withdrawal of sponsorship alters the dynamic of the couple's relationship and imbues the marriage with inequality and abuse of power. Some women felt that the power the sponsorship conferred on their husband actually caused their marriages to break down.

> *One of the reasons my marriage failed is that sponsorship thing. Why? Because he's given power. He can blackmail you whenever he wants.*

If sponsorship is withdrawn, the *Immigration Manual* (Canada 1996) stipulates that processing of the application for permanent residence should be suspended.[118] An immigrant woman may ask for her file to be reassessed. She then has to show that she is able to establish herself successfully in Canada because she has sufficient education and training, work experience and relatives in Canada who are prepared to help her. She also

has to show that there are "compassionate grounds" that justify her settling in Canada. These include marriage in good faith, spousal violence (physical and mental), the fact that she is pregnant or her children are Canadian, the problems she would face if she returned to her home country (lack of certain services, ostracism or discrimination because she has left her husband, etc.) and, finally, the fact that she reported voluntarily or otherwise to the immigration authorities. In investigating the compassionate considerations, the immigration officer must determine whether the sponsored woman is likely to become a burden on the state. Note that the interpretation and application of criteria for compassionate grounds fall within the discretionary power of immigration officers. This results in arbitrary measures, inconsistency and subjective decisions made on a case-by-case basis.

In practice, immigration officers seem to be mainly interested in the sponsored woman's capacity to establish herself and be financially self-sufficient. One immigration law specialist reports that, in practice, more attention is paid to the question of financial autonomy and establishment than to the violence suffered. This is not to the advantage of sponsored women because many do not speak English, have never officially worked, have not been able to accumulate any savings or have young children to look after. Many have trouble showing they are able to be financially independent, at least in the short term. Making financial autonomy a central criteria for granting permanent residency on humanitarian and compassionate grounds discriminates against immigrant women (PCLS 1998).

The current legal regime for sponsored women applying for permanent residence from within Canada thus poses many problems. Women have to wait months, sometimes years, before they can benefit from programs that are vital for their basic security, especially public health benefits and welfare. By allowing the sponsor to withdraw sponsorship at any time until the residence application has been accepted, the system gives a sponsoring husband a powerful weapon with which to control his wife and force her to submit to his authority and sometimes violence because she is afraid of being deported. The criteria used to evaluate the residence application on compassionate grounds gives too much weight to the sponsored woman's capacity to be financially self-sufficient and successfully enter the job market. These criteria fail to consider the precarious situation in which immigrant women find themselves as a result of the immigration regulations themselves, and they do not take into account the reality of racial and gender-based discrimination that is systemic in Ontario. As we have seen, discrimination makes it hard for immigrant women to find well-paid, secure jobs and show immigration officers they are able to be financially self-sufficient.

Second-Class Citizenship

Obtaining Canadian citizenship does not put an end to the sponsorship undertaking.[119] Under the agreement (IMM 1344C (02-98)E) signed between the immigrant woman and her sponsor (s. 9), she undertakes to ask her sponsor for financial support if she is unable to provide for her own essential needs herself, for a period of 10 years. The explicit purpose of this agreement is to ensure the sponsored immigrant woman does not apply for social assistance. In Ontario, the provincial directives (13.0-10 and 11) on interpreting the *Social Assistance Regulation* are very clear. Women citizens who have been sponsored in the past remain subject to the sponsorship agreement and the special rules regarding social

assistance for sponsored persons. "Sponsors of family class sponsored immigrants will continue to be responsible under the sponsorship agreement for the specified time period of ten (10) years or up to ten years as the case may be, even if the sponsored immigrant(s) have attained Canadian citizenship" (Ontario Works Policy Directive 13.0-10 and -11).

The provincial directives (13.0-13) clearly state that sponsored citizens do not benefit from the rights normally conferred by citizenship, and continue to be treated as sponsored immigrants.

> A Family Class immigrant who becomes a Canadian citizen while their sponsorship agreement is still in effect is treated the same under the *Act* as other sponsored immigrants who are not Canadian citizens. No distinction is made between citizens and landed immigrants with respect to obligation of the sponsor to provide the family member(s) with the essential needs for day to day living. Reasonable efforts are expected by the participant with regard to pursuing available support from the sponsor when the sponsorship agreement is still in effect (Directive 13.0-13).

The wording of this rule is remarkably cynical. By stipulating that the law makes "no distinction" between women who are immigrants and those who are citizens, it reduces the treatment given to all sponsored women to its lowest common denominator, meting out the same treatment whether they are citizens or not, as if they were all excluded from the rights associated with citizenship.

This means that a sponsored immigrant woman who obtains Canadian citizenship does not benefit from the same advantages and rights to social assistance as would other citizens (or the rights recognized for unsponsored permanent residents).[120] Yet access to public income support and security programs is one of the basic characteristics of effective citizenship. Citizenship involves the recognition of civil and political rights, but also the recognition of basic social and economic rights, such as social security and access to health care and education. As Monica Boyd writes (1997: 143), "citizenship is both a status which indicates equality as a member of a community and a set of civil, political and social rights." Social and economic rights are truly one of the hallmarks of citizenship in 20th century democracies, as Ian Morrisson writes (1997: 9).

> Social rights do not just derive from citizenship, they are constituent parts of it. Freeing people from immediate or imminent destitution makes possible their full participation in society, including their ability to exercise civil and political rights. This in turn increases social solidarity and enhances the meaning of citizenship. The measure of social citizenship, then, can be seen as the extent to which an individual as citizen is guaranteed access to the things seen as essential for basic dignity and participation in the society in which she or he lives.

The fact that the sponsorship agreement remains in effect even after the woman has become a Canadian citizen creates inequality that clearly violates the rights laid down in

the *Citizenship Act*. Section 6 of the Act clearly states that all citizens are entitled to all rights, powers and privileges; they are supposed to have the same status and be subject to the same obligations, duties and responsibilities. In addition, under paragraph 36(1)c) of the *Constitution Act 1982,* the federal and provincial governments are committed to "providing essential public services of reasonable quality to all Canadians." Yet the sponsorship agreement specifically releases the government from its obligation to provide essential services to the sponsored person by shifting the burden to the family member who signed the sponsorship agreement. Moreover, by automatically reducing social welfare benefits for a woman citizen who has been sponsored, the government is applying a discriminatory policy that also clearly violates the equality rights, equal treatment before the law and equal benefit of the law guaranteed by section 15 of the Charter. In so doing, it imposes the status of second-class citizen on sponsored women who have obtained Canadian citizenship.

In addition to its purely "legal" aspect, citizenship also embodies a dimension associated with "belonging" or being a part of society. These feelings depend on policies implemented by governments that confer true citizenship status or lead to social exclusion. As Jenson and Phillips write (1996: 115), "as it defines rights or grants access, the state simultaneously engages in representing citizens to themselves." Many sponsored immigrant women thus experience a second-class form of citizenship in its broader, less legal sense: they find they do not have the same rights as "other" women and are in a separate class. Esther says it is the fact that she does not have the right to social assistance that sets her apart from other Canadian women.

> *I knew I couldn't get welfare because the government didn't want me to be a burden on the state and that...I didn't have...I didn't have the same rights as other women.*

The exclusions and restrictions on sponsored women's access to social assistance or support programs may also undermine their self-esteem, as one of the women interviewed explains.

> *Well, I wasn't worth much because it always had to be the person who sponsors you who took charge of everything. It's true this is part of the sponsorship process but I think they should give a minimum of what would you call it—power—to the person waiting, because for some services, you'd go and ask for services offered to residents of the country. Sometimes he was eligible. But I wasn't. It would automatically fall through.... Some services we asked for, like housing, child-care expenses and all that. We weren't eligible, even though my husband was, but because of me, again, it was all my fault.*

Conclusion: The Discriminatory Impact of the Sponsorship Regime on Immigrant Women

In March 1999, the Supreme Court of Canada rendered a major unanimous decision on the interpretation of equality rights, in the *Law* case. Justice Iacobucci recalled that the Court

had in the past defined the object of section 15 of the Charter: it is supposed to protect people against oppression, prevent discrimination based on stereotyping of groups that have in the past been the victims of disadvantaged status or political or social prejudices, preserve human dignity, remedy unfair restriction of opportunities and improve the position of groups that have been disadvantaged or excluded from society as a whole. He went on (par. 51):

> It may be said that the purpose of section 15(1) is to prevent the violation of essential human dignity and freedom through the imposition of disadvantage, stereotyping, or political or social prejudice, and to promote a society in which all persons enjoy equal recognition at law as human beings or as members of Canadian society, equally capable and equally deserving of concern, respect and consideration.
>
> > Legislation which effects differential treatment between individuals or groups will violate this fundamental purpose where those who are subject to differential treatment fall within one or more enumerated or analogous grounds, and where the differential treatment reflects the stereotypical application of presumed group or personal characteristics, or otherwise has the effect of perpetuating or promoting the view that the individual is less capable, or less worthy of recognition or value as a human being or as a member of Canadian society.

He then pointed out that the wording of section 15 often emphasizes the need to safeguard human dignity.

> [T]he equality guaranteed in s. 15(1) is concerned with the realization of personal autonomy and self-determination. Human dignity means that an individual or group feels self-respect and self-worth. It is concerned with physical and psychological integrity and empowerment. Human dignity is harmed by unfair treatment premised upon personal traits or circumstances which do not relate to individual needs, capacities, or merits. It is enhanced by laws which are sensitive to the needs, capacities, and merits of different individuals, taking into account the context underlying their differences. Human dignity is harmed when individuals and groups are marginalized, ignored, or devalued, and is enhanced when laws recognize the full place of all individuals and groups within Canadian society (*Law*, par. 53*)*.

The testimony of the sponsored women taking part in this research project has clearly shown that sponsorship often creates a demeaning situation that restricts or eliminates their personal autonomy, endangers their safety and undermines their self-esteem. Many women described how marginalized they felt. They have been marginalized and diminished by the sponsorship regime, which reinforces stereotypes of feminine dependency and second-class status. In many cases, sponsorship exacerbates the social and economic disadvantages of immigrant women, putting them in a position where they are not recognized as equal. Many of them said they regarded sponsorship as discriminatory.

In the *Law* decision, the Supreme Court summed up the questions to be asked in determining whether a law is discriminatory within the meaning of section 15 of the Charter.

> A court pronouncing on an allegation of discrimination based on section 15(1) must therefore ask three main questions:
>
> (A) Does the contested law: a) establish a formal distinction between the claimant and other persons on the basis of one or more personal characteristics, or b) does it fail to take into account the claimant's existing disadvantaged status in Canadian society, thereby creating a real difference in treatment for this person and other people due to one or more personal characteristics?
>
> (B) Is the claimant subjected to different treatment on the basis of one or more of the reasons listed or analogous reasons?
>
> (C) Is the difference in treatment discriminatory in that it imposes a burden on the claimant or deprives him or her of an advantage in a way that denotes a stereotyped application of presumed personal or group characteristics, or that also has the effect of perpetuating or promoting the opinion that the individual concerned is less capable or less worthy of being recognized or acknowledged as a human being or member of Canadian society, who deserves the same interest, the same respect and the same consideration?

Throughout this report we have described the sponsorship regime as a self-contained regime of various policies and regulations, forming a fairly coherent whole. However, from the legal standpoint, it actually consists of laws, regulations and directives adopted by different jurisdictions (federal and provincial), each of which has its own procedures as well as its own objectives, and internal and political justifications.

When we talk of a sponsorship regime, the "contested law" referred to in the first question put by the court may be the *Immigration Act* or its Regulation or Directives, which impose federal law on sponsorship and immigration to Canada. It may also be the *Ontario Works Act 1997* and associated regulations and policy directives, which define the restrictions that apply to sponsored immigrant women regarding full benefit of the law in terms of social assistance. The contested law could also be the *Canada Student Financial Assistance Act* or other laws likely to affect various aspects of the lives of sponsored women who have not yet obtained permanent residence.

Our intention is not to argue the constitutionality of any one aspect of the sponsorship regime. This is a complex task that should be undertaken elsewhere. However, we are taking the preliminary step of identifying avenues of response to the three questions put by the court.

A. Does the sponsorship regime make a formal distinction or fail to take into account the disadvantaged situation of immigrant women, thereby creating a difference in treatment based on one or more personal characteristics?

Spousal sponsorship leads to discrimination because it has a detrimental effect: the *Immigration Act* and the *Ontario Works Act* fail to take into account the disadvantaged status that is, in fact, the condition of immigrant women in society, because they are women of colour and, in this case, Francophones.

The husband's legal obligation to undertake responsibility for his wife is implemented by the federal government without considering the specific impact of this legal relationship in the conjugal context. Yet we cannot ignore the history of gender relations: 2,000 years of patriarchal society have left their mark on the dynamics between men and women. The past and present structure of male domination and female subordination within the couple should be taken into consideration in all public policies. The sponsorship relationship and the power conferred on the sponsor by the government have a disproportionate effect on women when a man sponsors "his" wife. In failing to take this reality into account, the government is discriminating against immigrant women.

Furthermore, the sponsorship regime does not take into account the fact that immigrant women are already disadvantaged in the job market and in society. As we have seen, they systematically face prejudice, barriers and exclusion inherent to the systemic racism and sexism prevalent in Ontario and Canada. As a result, immigrant women are often forced to work for unacceptably low wages, if they find any work at all. They only have restricted access to support services and also experience major problems finding adequate housing, among other things. This pre-existing discrimination exacerbates the dependency and vulnerability of immigrant women vis-à-vis husbands/sponsors and creates a situation in which sponsored women are deprived of equal rights under the law and equal protection of the law.

With the *Ontario Works Act*, the government establishes a "formal distinction" between women (and men) who are sponsored and other welfare recipients. This distinction results in a reduction of the payments to sponsored persons and is authorized by subsection 74(1)9(viii), which gives the government the right to make regulations based on the "person's status in the country." In section 51 of the Regulation, the distinction is formally recognized on the basis of sponsorship, in that it applies to a person who has entered into an agreement under the *Immigration Act.* In the directive, the person falls into the category of "immigrants, refugees and deportees." In all cases, this is discrimination based directly on immigrant status. Moreover, automatically reducing welfare benefits solely by virtue of the sponsored person's status, irrespective of living conditions and without taking into account any pre-existing social and economic disadvantages of immigrant women—women of colour—constitutes an "omission" that, in practice, is likely to result in discriminatory treatment of immigrant women.

B. Is the difference in treatment based on one or more of the enumerated or analogous grounds?

An immigrant woman sponsored by her husband suffers from discrimination based on her sex, colour, race and immigrant status. The *Symes* decision established that a claimant may invoke more than one ground in prosecuting a discrimination claim. This holding was recently affirmed in *Law* (par. 37). In that case, the Supreme Court explained that the determination of whether a claimant's equality rights have been violated must be determined from the standpoint of the person or group experiencing the discrimination. In other words, the law now recognizes that discriminatory treatment of sponsored women may occur for a number of reasons, oftentimes interrelated, not one alone.

Indeed, the sponsorship regime generates gender-based discrimination because it has a specific detrimental impact on women, given the context of gender inequality in marriage, past and present. More than half of all immigrant women establishing in Ontario are sponsored by a family member. Sponsorship, therefore, is of great concern to women. A policy obliging a woman to acknowledge that her husband has "undertaken responsibility" for her is a policy that decrees subordination to spousal authority. Even if the law is formally gender neutral and applies equally to both spouses, its gender effect exacerbates the historical inequality of women and strengthens the power of men within a couple and the family.

In addition, given that the vast majority of immigrants to Canada are people of colour, the detrimental effects of sponsorship are felt mainly by women of racial minorities. Since it is usually women of colour who suffer the discriminatory impact of the sponsorship regime, it is also a discrimination based on race or colour.

Finally, only immigrants are required by the Canadian government to make this undertaking inherent to the sponsorship arrangement, in exchange for the right to live with members of their immediate family. Only immigrants have to carry this additional and very expensive burden to enjoy family reunification.

C. Does sponsorship have a discriminatory effect?

Sponsorship imposes burdens, obligations and disadvantages on immigrant women that exacerbate their inequality, restrict their access to social benefits and increase their social, economic, legal and political disadvantage.

As we have seen, by arranging for husbands to "undertake responsibility" for wives, the sponsorship regime gives men a lever with which to assert their power in the conjugal relationship and dominate the wives. It gives major symbolic ascendancy to men and upsets the balance within a couple. The sponsorship regime reinforces and consolidates the traditional role of male dominance in marriage that was originally sanctioned by European-inspired law. It helps to maintain the dependency and subordination of married women, making them more vulnerable to spousal violence. It also imposes a structure that places women under the rule of family government, in which the man is the confirmed "head," restoring an outdated model of the family. Insofar as the sponsorship regime heightens the inequality of women within marriage, it discriminates against them.

Furthermore, sponsorship is based on the respondent's commitment to provide for the essential needs of the person being sponsored. This requirement privatizes the human rights of the sponsored immigrant woman who, in an emergency (job loss, illness, etc.), must rely on her sponsor and depend on him for assistance in dire need, even if the two are no longer living together. In Ontario, if the sponsor is unwilling or unable to fulfil his obligations and the sponsored immigrant woman is forced to apply for social assistance, she automatically has her benefit reduced by at least $100. This difference in treatment imposed by law is all the more suspect because it may violate the freedom and security of the person by jeopardizing the right to a benefit that ensures (in theory at least) sustaining basic needs such as food and housing. These rights are recognized by international law, and the Supreme Court, in *Law* (par. 74), confirmed that discrimination that violates other human rights is all the more difficult to justify.

Moreover, if the sponsored immigrant woman has applied for permanent residence in Canada, she is temporarily deprived of the right to protection of the basic social and economic rights normally provided by the government. In practice, she has to wait months, even years, before she can have access to health insurance, obtain a work permit or entitled to receive financial support for post-secondary studies. This exclusion from the benefits normally enjoyed by citizens and permanent residents of Canada may endanger the health and security of these women; it may also give them a sense of being marginalized that clouds their relationship with their adopted country for a long time. To these factors must be added the extreme vulnerability of sponsored women awaiting permanent resident status, because the sponsor may withdraw his sponsorship at any time until permanent residence is granted. This situation heightens the dependency of women and makes them more vulnerable to spousal violence, endangering their right to freedom and security of the person. In other words, the human rights of sponsored women are undermined by their immigration status.

Finally, even if a sponsored immigrant woman becomes a citizen in good standing, she remains subject to the sponsorship undertaking and does not benefit equally from the benefits extended by the government. She continues to be the responsibility of her sponsor and, in Ontario, her right to social assistance remains subject to discriminatory regulations that disregard the fact that she is a citizen. In this way, the sponsorship regime creates second-class citizenship for immigrant women.

In short the sponsorship regime constructs immigrant women as dependent and subordinate within the family, marginalized and unequal within society. They are defined as second-class citizens who are deprived of the respect, protection, benefits and rights that should be universally granted to all. Clearly, sponsorship is not the only cause of inequality of women within marriage, or of their socio-economic vulnerability. However, the fact remains that the Supreme Court has unequivocally stated that a law or a government practice does not have to be the sole cause of discrimination for it to be declared invalid; the mere fact that it contributes to a dynamic of inequality is sufficient, as the Supreme Court established in the *Vriend* decision.

In the recent *Law* decision, the Supreme Court stated that the discriminatory effect of the government's action has to be evaluated in the context in which it takes place. Justice Iacobucci (*Law*, par. 88) wrote: "Pre-existing disadvantage, stereotyping, prejudice, or vulnerability experienced by the individual or group at issue" must be considered in determining whether the rights to equality guaranteed by section 15 of the Charter have been violated. As we have seen in this part of our report, as women, members of racial and ethnic minorities, and immigrants, sponsored women are economically, socially and politically disadvantaged from the outset. They have to deal with racism in the workplace and society every day. Generally, they are exposed to xenophobia and prejudice against immigrant women, as well as intolerance of the Francophone reality. They also have to face gender discrimination, harassment and sexism that are intensified by close links with racism and xenophobia. Given the context in which immigrant women live, we must recognize that the sponsorship regime is discriminatory because it worsens their already disadvantaged status.

Although sponsorship was originally designed to achieve the important legislative objective of family reunification, this policy is inappropriate when applied to women who immigrate to join their husband, because it is discriminatory. The adverse effects of sponsorship on the equality rights of immigrant women are disproportionate to the benefits. In some cases, the unhealthy dynamic introduced by sponsorship even leads to the breakdown of the marriage, an outcome that runs counter to the original purpose of family reunification. It is difficult to imagine how such discrimination can be justified in a free, democratic society, when there are other ways to promote family reunification that respect constitutional equality rights of women.

The preamble to the *Convention on the Elimination of All Forms of Discrimination Against Women* reminds us that:

> discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity.

Article 2 of the Convention commits Canada to "refrain from engaging in any act or practice of discrimination against women" and to "take all appropriate measures" to eliminate discrimination. The Convention complements the Charter and imposes a concrete obligation on the government: it must reform its practices and introduce appropriate policies for respecting the equality rights of immigrant women.

Considering their obligations under international and constitutional law, the federal and provincial governments have no right to implement discriminatory policies that heighten the disadvantage and inequality of a group historically subject to discrimination. On the contrary, it is their duty to implement policies that promote the equality of women—all women. Instead of using taxpayers' money to fight the legal actions constantly being instituted against their discriminatory policies, governments would be well advised to reform their sponsorship policies, and introduce laws and regulations that actually promote the equality and human rights of immigrant women.

PART IV: PROPOSED REFORMS AND RECOMMENDATIONS

INTRODUCTION

As we have seen, the sponsorship regime creates a legal relationship between spouses which is likely to introduce or contribute to a dynamic of control and sexual subordination within a couple, thereby reinforcing the inequality of women. Moreover, in Ontario, it deprives sponsored women of access to certain benefits normally conferred by the state. Specifically, the government has reduced social assistance benefits based solely on immigration status. As such, sponsorship threatens the right of sponsored women to freedom and security. But even obtaining citizenship does not put an end to the restrictions placed on the socio-economic rights of sponsored individuals, who are literally treated like second-class citizens from the moment they are sponsored. Given the current socio-economic conditions of immigrant women and the historical context within which their rights have evolved, it seems certain that sponsorship aggravates their disadvantage and causes prejudice, thus also violating their rights to equality as recognized under section 15 of the *Canadian Charter of Rights and Freedoms*. Sponsorship not only has a discriminatory impact on women who are sponsored by their husband, but it imposes a considerable economic burden on immigrant families who must pay a high price for exercising their right to family reunification.

Clearly, the sponsorship regime is in need of major reforms. To this end, the Table féministe wishes to participate in the legislative review process by proposing recommendations geared toward the effective realization of women's right to equality. The key principles that should guide the reform are the respect for women's equality rights, the protection of immigrants' human rights, the creation of a system exempt from arbitrary decisions and ambiguity, and the effective recognition of the right to family reunification.

The two reform options proposed in this section are based on the legal analysis of the impact of sponsorship drawn from the results of the research underlying this report as well as the comments and suggestions from sponsored women themselves. Since it seemed important to support our reflections by considering models developed elsewhere, we examined reforms implemented in Quebec and the United States. The proposals set forth by the Immigration Legislative Review Advisory Group in its report entitled *Not Just Numbers: A Canadian Framework for Future Immigration* (tabled in January 1998) as well as the proposals announced January 6, 1999 by the Minister of Citizenship and Immigration in a document entitled *Building a Strong Foundation for the 21st Century: New Directions for Immigration and Refugee Policy and Legislation* were also examined.

We first deal with earlier models and proposals, and outline their respective strengths and weaknesses. We then propose reforms most likely to lead to improved respect for the equality rights and other human rights of immigrant women who are sponsored by their husband.

Finally, we also present the recommendations put forward during the community consultation forum organized by the Table féministe francophone de concertation provinciale de l'Ontario, held during the weekend of May 1, 1999.

1. REFORM MODELS AND FEDERAL PROPOSALS

The Quebec Model

The sponsorship regime in place in Quebec was selected for study because Quebec is the only province in which the duration of the undertaking agreement between spouses has been reduced to three years. This model deserves attention since it allows us to observe the substantial problems that sponsored women continue to confront.

We begin by presenting the reasons that led the government to reduce the duration of sponsorship. Next, we show that this reduced period offers no solutions for women awaiting status in Canada and facing withdrawal of sponsorship. We then examine how sponsored women are not a party to the sponsorship undertaking agreement and are excluded from the procedure of processing their application for permanent resident status. Last, we address some of the negative impact of the government's measures in the execution of the sponsorship undertaking on sponsored women's access to welfare.

Reducing the Sponsorship Period

Quebec is the only Canadian province that has taken advantage of the possibility of passing immigration legislation.[96] According to the *Gagnon-Tremblay/McDougall Accord*,[122] Quebec is responsible for selecting immigrants entering the province, except for the family class and refugee categories. However, when the sponsor is a Quebec resident who wants to sponsor a member of his or her family, the provincial government oversees the application of the selection criteria established by the federal government. The Quebec government defines the financial norms and remains the only party responsible for monitoring the sponsorship undertaking. The Quebec government has the power to establish the content and the duration of this undertaking, reverse it and take measures when sponsors do not respect their obligations.

In a study released in May 1998, the Conseil des communautés culturelles et de l'immigration du Québec observed that the 10-year sponsorship period had a prejudicial effect on the welfare and security of women sponsored by their husband (Racine 1988). It was not until 1994 that the government acted on this observation by reducing the sponsorship period for spouses to three years (s. 23 of the *Regulation respecting the selection of foreign nationals*). In November 1995, the government responded to the demands presented at the Bread and Roses March by retroactively reducing the sponsorship periods of all undertaking agreements signed by spouses before October 31, 1994 (Canada 1996: IM-1-2: 7).

However, the duration of the undertaking for all other family class members has not been reduced and stands at 10 years (s. 19 of the same Regulation).

By reducing the sponsorship period, the government recognized that spousal sponsorship engenders specific problems attributable to the very nature of the conjugal relationship.

However, our analysis of the Quebec model will show that reducing the duration of the undertaking does not, in itself, rectify a situation that remains unacceptable in many respects for sponsored women.

The Withdrawal of Sponsorship

Sponsored women awaiting permanent resident status in Quebec face the same problems as sponsored women elsewhere in Canada. They are in a very precarious situation in that their sponsor can withdraw the sponsorship undertaking at any time, until the permanent resident status has been granted. This long waiting period can exceed 18 months.

As in the rest of Canada, the fact that a sponsored woman can be deported if her husband withdraws his sponsorship contributes to creating a relationship of control from which it can be difficult for a wife to extricate herself. Indeed, the threat of sponsorship withdrawal is often used to subjugate sponsored women, by keeping them in a state of fear. A sponsored woman is particularly vulnerable to conjugal violence due to her dependency on her husband (Jacoby 1998: 24).

Sometimes, a husband withdraws his sponsorship undertaking without his wife's knowledge. This means she may wait in vain for her permanent resident status, unaware that her sponsorship application has been voided,[123] and she runs the risk of finding herself in an illegal situation.

In November 1995, Quebec adopted specific guidelines geared toward the withdrawal of sponsorship affecting women experiencing conjugal violence. These guidelines apply to women awaiting permanent resident status who must leave their husband for their own safety. To obtain permission to stay in Canada despite the withdrawal of sponsorship, these women must meet legal requirements with regard to health, good conduct and financial autonomy. However, this last criterion may pose a serious problem for many women, particularly for those who are subjected to conjugal violence. Indeed, it is almost impossible for a woman to be financially self-sufficient when she is controlled and isolated by an abusive husband, does not speak the language or understand the culture of the host country, is without work and money, and has little or no support for her children.

The Exclusion of Sponsored Women from Undertaking Agreements

In Quebec, the sponsorship undertaking still takes effect without the consent of the sponsored woman.[124] Indeed, sponsored women are not formally invited to read over or sign sponsorship documents, contrary to practices in place since 1997 elsewhere in Canada. Only the sponsor signs the sponsorship agreement in which he agrees to provide for the essential needs of his spouse, within reason.[125] He also agrees to reimburse any emergency benefits (including special benefits) his spouse might receive during the sponsorship period.

Sponsored women are, therefore, excluded from a contract that places them in a relationship of dependency vis-à-vis their husband and which, as we will see, may affect their right to receive social assistance.

How can the government presume that a sponsored woman understands and accepts the obligations associated with sponsorship (Blackwell 1995)? In a way, this process constitutes a removal of a sponsored woman's legal capacity, since her husband is authorized to consent to an undertaking agreement on her behalf, as though she were incapable of doing so herself. This legal undertaking of responsibility engenders a power differential within the couple that will be reinforced throughout the sponsorship period. The presumption that the sponsored woman knows and accepts the conditions of sponsorship are often false. Indeed, in many cases, it is only when women apply for social assistance that they are informed about the consequences of sponsorship.[126]

We might well ask whether sponsorship can be valid without the consent of the sponsored woman, based on the rules applying to contracts containing a "stipulation for the benefit of another."[127] Indeed, the undertaking agreement contains such a stipulation since the sponsor undertakes to provide for the essential needs of his spouse and to reimburse her social assistance benefits, even though she is not party to the agreement.[128] Normally, the acceptance of the stipulation for the benefit of another by the concerned party is essential to ensuring its validity.[129] It should also be added that the validity of the undertaking agreement may be questionable since the sponsor promises that his wife will not apply for social assistance benefits.[130] The authors also see in this agreement an undue privatization of governmental obligations with regard to disadvantaged persons in our society.

The Exclusion of Sponsored Women from the Process

In addition to not consenting to the undertaking agreement, sponsored wives are excluded from the sponsorship application process. Indeed, official administrative procedures do not require Quebec immigration officials to communicate directly with sponsored women. The husbands are the only ones with any say.

The authorities delegate their responsibilities to the husband, entrusting him to provide his sponsored wife with the information and assistance necessary to facilitate her integration in Quebec (Canada 1996: IM-1-2: 12). Indeed, whether a sponsored wife is residing within Quebec or in a foreign country, her husband is responsible for providing her with the documents pertaining to her sponsorship application. He must, for example, remit to her a copy of the sponsorship undertaking agreement that he signed, a "Guide for Person Being Sponsored" and an Application for Selection Certificate from Quebec (Canada 1996: IM-1-4: 9).

The *Immigration Manual* (Canada 1996) does not stipulate that officers must advise sponsored women regarding the status of their application nor of their decisions. In fact, if an application for sponsorship is refused, only the sponsor must be informed. If sponsorship is withdrawn, a sponsored woman will not be appraised of this fact either.

Restricted Access to Welfare

The government considers that the sponsorship undertaking has not been respected when a sponsored spouse receives social assistance benefits, and it has adopted various measures that may indeed deprive her of welfare benefits if she leaves her husband.

Sponsored women who apply for social assistance must first ask their husband to provide for their essential needs. Officially, a sponsored woman must do everything within her power to make her settlement in Quebec a success.[131] If she is considered capable of holding a job, she must also take measures to find paid employment before she can be considered eligible for government assistance, according to section 28 of the *Income Security Act.*

To be eligible for social assistance, a sponsored woman must first commence support proceedings against her husband so the court can order him to provide for her essential needs.[132] Making social assistance conditional on commencing support proceedings subjects some sponsored women to very difficult waiting periods during which they may find themselves completely destitute.[133]

It is worth noting that, generally, when a court is presented with this kind of action, support is granted according to the husband's ability to pay. In so doing, the court sets aside the sponsorship undertaking that would normally mandate that the sponsor provide for the essential needs of his wife, regardless of his financial means.[134] The court takes this course of action because it deems that the sponsor's responsibility toward his wife is not based on the sponsorship undertaking but, rather, on the spousal support obligations provided in the *Civil Code of Quebec*, which establishes support according to the respective financial means of spouses.[135] Based on this approach, the Quebec Ombudsman was prompted to recommend that the sponsorship undertaking between spouses be replaced by the support obligation between spouses as provided in the Civil Code.

Once a sponsored woman has initiated support proceedings against her husband, the immigration authorities of Quebec will contact him to inform him that he has the obligation to "reassume responsibility" for her, according to the sponsorship undertaking he signed.[136] The sponsored woman does not have a right to social assistance if her sponsor offers her a sum of money or provides her with room and board. Obviously, it is in the sponsor's best interest to agree to reassume responsibility since he must otherwise reimburse the amount of social assistance paid to his spouse.[137]

A sponsored woman may thus be deprived of social assistance benefits and find herself in an extremely precarious situation because her husband does not have the means to "reassume responsibility" for her (Jacoby 1998: 24). Indeed, the Quebec Ombudsman recommends that the government ensure that a sponsor is, in fact, able to honour his commitment to reassume responsibility before social assistance is refused to a sponsored person (Jacoby 1998: 24).

In principle, the sponsored wife cannot refuse her husband's reassumption of responsibility for her, whether it's an offer to pay her a sum of money or have her live in his home, unless she convinces the authorities she has a valid motive. Although "serious evidence" of conjugal violence is considered a valid motive for refusing, most women hesitate to confide in officials, some of whom lack "the necessary sensitivity and expertise to accurately identify cases of violence" (Jacoby 1998: 25).

Last, the Quebec Ombudsman's report mentions that the policy of the Government of Quebec is to refuse to nullify sponsorship undertakings in cases where there has been a

withdrawal of sponsorship during the processing of an application for permanent resident status, and a spouse has subsequently obtained the right to settle in Canada for humanitarian reasons. Despite the fact that the federal authorities believe that sponsors in such cases are no longer responsible for sponsored spouses, the Quebec government refuses to release them from their undertaking (Jacoby 1998: 27-28). It is unacceptable that a woman's right to social assistance be conditional on the renewal of the undertaking of responsibility by a spouse who has already withdrawn his sponsorship.

Clearly, the regulations imposed on sponsored women who request social assistance can keep them in financial and emotional dependency with regard to their husband. Although it is recognized that this dependency makes women more vulnerable to conjugal violence, the Government of Quebec insists that their husband take charge of their needs, potentially exacerbating the relationship of control that is often rooted in the sponsorship undertaking. The provincial government can refuse to grant emergency assistance based on the fact that a husband has agreed to "renew his undertaking of responsibility" for the sponsored woman, without any concern for the capacity or the real will of the sponsor to fulfill his promise. We believe that the net result of these governmental restrictions is the violation of the social rights of sponsored women.

The American Model

In the United States, a woman who immigrates to live with her husband cannot initiate steps to obtain permanent resident status on her own behalf; it is up to her husband to take the initiative. If a husband delays in this regard or neglects to meet the financial requirements and provide the necessary documentation, the wife will find herself without legal status, an "illegal alien," according to official terminology. A violent husband may exploit the power vested in him by the law to maintain his spouse in a precarious and vulnerable situation.

Further to the lobby brought to bear by women, the American government instituted some protective measures for immigrant women sponsored by their husbands through the *Violence Against Women Act of 1994* (VAWA).[138] Specific provisions of this Act amended American immigration law, in this case, the *Immigration and Nationality Act* (INA). This initiative constituted a recognition from federal American authorities that immigration procedures regarding sponsorship were often used as a weapon by violent spouses, as evidenced in the regulations developed by the Immigration and Naturalization Services (INS).

> Some abusive citizens or lawful permanent residents, however, misuse their control over the petitioning process. Instead of helping close family members to legally immigrate, they use their discretionary power to perpetuate domestic abuse of their spouses and minor children who have been living with them in the United States.... The *Violence Against Women Act of 1994* (VAWA), contains several provisions that limit the ability of an abusive citizen or lawful permanent resident to use the immigration law to do further violence to a spouse or a child in the U.S. (DJINS 1996: 13062).

Essentially, the reform adopted in this context allows a sponsored woman who has been a victim of conjugal violence to apply for permanent resident status on her own behalf. She requires no agreement or authorization from her husband but must submit a "self-petition" as specified under section 204 of the INA. Section 244 of this Act also provides for a special stay of deportation that can be used by immigrants without status who have been victims of conjugal violence. Furthermore, the Act includes a provision for children victims of violence who may also benefit from reforms designed to take conjugal violence into account.

However, this reform only addresses immigrants (and their children) who are victims of conjugal violence *and* who are in the United States out of status. It does not apply to all sponsored immigrant women, much less to all women immigrants.

Criteria

The self-petition criteria that must be met by immigrant women who are victims of conjugal violence to obtain permanent resident status are rigorous. An overview of these criteria is presented below. A woman's application may also cover her children.

- An immigrant woman must be legally married to her violent husband when she takes legal action (although the regulation stipulates that as soon as she begins proceedings she can then file for divorce) (OPINS 1996: 6).

- Her husband must be an American citizen or a lawful permanent resident. A woman who is abused by a man who does not have legal status has no recourse according to these provisions (OPINS 1994: 23).[139]

- She must have cohabited with her husband in the United States and must be residing in the United States at the time of her application.

- The marriage must have been entered into in good faith.

- Normal requirements with regard to the status of the immediate family must be met—having no criminal record, not being a public burden and not having AIDS, for example (OPINS 1994: 25).

- She must show that she (or her children) were "victims of battering or extreme cruelty." The violence must have been physical or psychological, but in the latter case, it must have been very serious. Incest is automatically considered a violent act if the child was a minor at the time the act was committed (OPINS 1996: 10).

- She must prove that she or her children would be subjected to "extreme hardship" if forced to return to their country of origin. Simply finding herself without a job, undergoing economic deprivation or having difficulty adjusting to life in her country of origin is not enough (OPINS 1996: 8). However, factors such as the social, medical and other needs of women and their children, the laws and customs likely to result in their being ostracized on their return and the ability of local authorities to protect a woman

against any future violence from her husband are also taken into consideration (OPINS 1996: 9).

- An immigrant woman must prove she is of "good moral character." This criterion is assessed in relation to the "standards of the community." It should be noted that the immigration department may take into consideration any event that occurred before and after her application for permanent resident status (OPINS 1996: 10). If, in the past, the woman received social assistance or if she has a criminal record, it will be difficult for her to meet this criterion. In this regard, criminal proceedings pending against her by her abusive spouse (countercharges filed by violent husbands against wives that have reported them to the police are becoming more and more frequent in Canada and the United States), proceedings with regard to custody of children and action taken by social service agencies may also work against her (OPINS 1994: 24). Moreover, the authorities are likely to consider an applicant to not be of good moral character if she has "wilfully failed or refused to support dependants" or if she committed illegal acts that give a bad impression of her morality (OPINS 1996: 11). There is every indication that the authorities will be strict in their application of these standards.[140]

- Last, the fact that an immigrant woman takes steps on her own behalf to file for permanent resident status does not automatically give her the right to a work permit. She must undertake a series of steps to this end (OPINS 1996: 5).

The 1994 reform also provides that an abused woman may undertake proceedings in order to stay a deportation order (section 244 of the INA). She must meet essentially the same criteria as with the self-petition procedure, except that she will not be required to meet the criterion of marriage entered into in good faith, and need not be married to her violent partner (OPINS 1994: 26). However, in such a case, the woman cannot include her children in her application and must present a separate application on their behalf. Moreover, she must prove she has resided in the United States without interruption for at least three years. (Theoretically, this requirement is a more flexible version of the general rule regarding applications to stay deportations, which require seven years of continuous residency) (OPINS 1994: 26).

Last, this reform provides for the adoption of particular rules of evidence for self-petition applications for permanent resident status or stays of deportation for reasons of conjugal violence. These rules are summarized in the following section.

Particular Rules of Evidence

Sections 204 and 244 of the *Immigration and Naturalization Act* were amended following the reform introduced by the VAWA to specify that the Attorney General had to examine "any credible evidence relevant to the application" submitted by an immigrant woman without legal status who was a victim of conjugal violence. The amendment specifies that determining the weight and the credibility of the evidence is entirely at the discretion of the Attorney General (204 (H) of the INA).[141] However, the INS has made its preference known with regard to which official documents are required to prove the existence of conjugal violence (e.g., police reports, medical reports). The list of documents required by the INS to

establish the three elements central to the application (i.e., evidence that the woman was a victim of conjugal violence, that the marriage was initially entered into in good faith and that deportation would cause undue suffering) is very lengthy.[142]

A woman must first produce any peace bonds issued by the court against her husband, police records, medical files, criminal records, files from a women's shelter, files from counsellors and therapists, photographs attesting to wounds, her own testimony in the form of an affidavit, affidavits signed by witnesses who are in a position to corroborate her version of the facts (e.g., witnesses of the husband's violence and the injuries she incurred) and property damaged by her husband (e.g., torn-up clothing and broken objects).

To establish that deportation would cause her undue suffering, a woman must show (in addition to the usual evidence) that she needs to have access to the protection available through American courts (by presenting any peace bonds that may have been issued against her husband, complaints filed with the police, child welfare ordinances, etc.) and that she needs community and social services in the United States that are not available in her country of origin (by showing that she used some services or that she has specific psychological or health needs, etc.). She must prove she is at risk of being ostracized if she returns to her country of origin or that there is no law to protect her from her husband's abuse, or that there are no support programs for abused women, for example. She must also produce evidence of her husband's behaviour, the nature and intensity of the violence, and the steps he may have initiated but not completed with immigration services.

To establish that the marriage was entered into in good faith, she must provide her marriage certificate, mortgage, deed or lease on her dwelling, her children's birth certificates, marriage photos, proof of a joint bank account as well as a series of documents attesting to her life with her husband (e.g., income tax reports, life insurance plans, proof of vacations taken together and correspondence between spouses).

Of course, it is not necessary to produce all these documents in every case. Theoretically, the INS allows an applicant who is not able to submit this kind of documentation, to submit a minimum of two affidavits—one for her own testimony and one of a witness who can corroborate her version of the facts.[143] However, this very partial list of the types of documents, files and reports the INS can examine in assessing a self-petition for permanent resident status or a stay of deportation creates a heavy burden for the applicant.

Essentially, the American model is geared toward remedying the tragic effects of conjugal violence after it has taken place. The basic structure of the sponsorship undertaking is not called into question. Moreover, the criteria adopted to allow an abused woman to obtain her permanent resident status following a withdrawal of sponsorship are extremely rigorous and very difficult to meet, especially since the amount of required evidence is very substantial. In sum, we do not think this model is worth considering in developing reform in Canada.

Federal Proposals

Further to numerous criticisms that have emerged from all quarters, the Minister of Citizenship and Immigration has recognized the necessity of reforming the *Immigration Act*. Amended more than 30 times since it was first adopted in 1978, this Act has resulted "in a complex patchwork of legislative provisions that lack coherence and transparency" (CIC 1998b: 3). It has become so complex that it raises numerous problems in its application and interpretation. It is difficult to consult and opaque for citizens and immigrants.

The process of revising immigration legislation started in November 1996 with the creation of the Immigration Law Reform Advisory Group (ILRAG), which was responsible for proposing recommendations with a view to reforming the Act and the regulations, policies and programs. On January 6, 1998, the Group made public its report, *Not Just Numbers: A Canadian Framework for Future Immigration* (hereinafter referred to as the *Not Just Numbers* report). It set forth 172 recommendations, as well as a summary of core values and principles that were to serve as the basis of the immigration and refugee protection system. The Minister held public meetings in February and March 1998 in Vancouver, Winnipeg, Toronto, Montréal and Halifax to hear reactions to this report from concerned people and organizations.[144] On January 6, 1999, based on this report and on subsequent consultations, the Minister announced new orientations that would guide the legislative reform with regard to immigration and refugees in a document entitled *Building a Strong Foundation for the 21st Century: New Directions for Immigration and Refugee Policy and Legislation* (CIC 1998b: 6).

Although the proposed reforms concern all immigrants and refugees, we will only analyze the proposals that are most likely to have an impact on women who are sponsored by their husband. Recommendations from the *Not Just Numbers* report that address the themes selected by the Minister will be presented as needed.

General Comments on Gender Equality

First, we should stress that gender equality is not one of the 10 themes that will be used to guide the government in restructuring policy and legislation with regard to immigrants and refugees. This fundamental omission is shocking given that the *Not Just Numbers* report rightly states that all immigration policy must be imbued with the principle of non-discrimination and gender equality.

> Any new legislation must be sensitive to gender. This can be accomplished by a technique called "gender mapping" which assesses the practical impact of proposed legislation, policies and programs on gender (ILRAG 1998: 7).

The report calls on the government to monitor systematically the effect of any potential reform on gender equality before determining its policy, restructuring the Act and its regulations, and establishing its programs (see Justice Canada 1998).

We deplore this serious shortcoming as it affects the fundamental validity of the legislative review process, by ignoring its potential effect on women. As the Canadian Council for

Refugees (CCR) points out, a gender-based analysis is only valid if it is conducted in the course of policy development, not after the fact, once decisions have been made (CCR 1998: 7). The government must, therefore, correct this fundamental shortcoming as soon as possible.

Definition of Spouse

In recognition of the necessity to adapt legislation to new social realities and the changing Canadian family, the government intends to expand the definition of spouse to include common-law spouses and same-sex partners.

We appreciate the government's recognition of the need to update the definition of "spouse" to take into account the reality of a growing number of women. As mentioned in the *Not Just Numbers* report, the current definition of "spouse" is outdated and discriminatory with regard to common-law spouses, and lesbian and gay couples.

However, we must stress that the government has not specified how it intends to define common-law couples. For lack of orientation in this area, the recommendations formulated in the *Not Just Numbers* report seem relevant in nourishing our ongoing reflections regarding an appropriate definition.

The *Not Just Numbers* report (pp. 43-44: Rec. no. 32) stipulates that the concept of "spouse" must be based on emotional dependency in a context of cohabitation. The report proposes to redefine "spouse" as follows:

1) A partner through a marriage legal in the jurisdiction in which it occurred, or
2) A partner in an intimate relationship, including cohabitation of at least one year in duration.

One might ask how the very vague and subjective concept of "intimate relationships" might be interpreted. For lack of clear and precise guidelines that take into account the diversity of human relationships, there is reason to fear that the proposed definition will lead to many arbitrary decisions and injustices.

Moreover, we believe that the necessity of proving that a couple has lived together at least one year could cause prejudice to spouses who live apart, a very common situation in the context of immigration. The Barreau du Québec (1998: 12) has discussed this problem in the following terms.

> The reference to a partner bound by an intimate relationship and with at least one year of cohabitation will also pose certain problems. What is meant by "intimate relationships" and how must we calculate the year of cohabitation when one partner has been living in a foreign country for over a year? We recognize that there must be a better assessment of the evidence to be provided by applicants and some flexibility could allow for adjustments to this recommendation that, as it stands, will be difficult to apply [translation].

We are of the opinion that the cohabitation requirement is problematic when those concerned do not live in the same country. The same applies for same-sex spouses who, in many cases, absolutely cannot safely live together in their country of origin. More flexible regulations for establishing the definition of intimate relationships would be in order. In this regard, we share the preoccupations expressed by the CCR (1999: 7).

> The proposal to recognize common-law and same-sex couples is welcome. However, the exact terms will be important. They need to be sufficiently flexible to take account of different cultural and political realities. For example, in many countries same-sex couples cannot safely live together: it would therefore be inappropriate to have cohabitation a necessary criterion. Common-law marriages should be defined in such a way that it addresses the situation of people married in traditional ceremonies which do not lead to official marriage certificates.

Moreover, there is good reason to question the appropriateness of forcing fiancés to marry when the new definition of "spouse" would allow common-law partners to immigrate to Canada without having to marry. Broadening the definition leads us to believe that the very concept of "fiancé" would become useless in the context of sponsorship. Certainly, there is no reason to impose more draconian conditions on fiancés than on common-law spouses.

Processing Sponsorship Applications in Canada

The government wishes to allow spouses and dependent children to apply for permanent resident status within Canada on the condition that they have legal status at the time their application is made. However, persons not eligible because of criminal justice or security issues, as well as persons without legal status or those being threatened with removal would be excluded from this procedure.

The *Not Just Numbers* report makes the same recommendation (no. 44) in order to allow for family reunification and to shorten the current period of separation of at least one year during the processing of an application in a foreign country. The report recognizes that "the involuntary separation of individuals from those family members they hold most dear is therefore something that the State should seek always to alleviate, never to exacerbate" (ILRAG 1998: 42).

We consider that the only way to promote family reunification effectively is to allow all spouses and their children to submit applications in Canada, regardless of their status. It seems altogether arbitrary to exclude those who do not have legal status. The CCR (1996: 6) writes:

> Regularizing inland applications from spouses and children is eminently sensible. However, to restrict it to those with legal status is both unfair and inconsistent. It would favour people from countries where a visa is not required. It fails to take account of the objective of reuniting families and Canada's international obligations in this regard (notably under the Convention on the Rights of the Child).

It should be added that the proposed measure would be all the more insidious given that government proposals regarding the application of discretionary power would prevent spouses without legal status from requesting permanent residence on humanitarian grounds while in Canada, as shall be discussed later.

The Length of the Sponsorship Undertaking

Although the *Not Just Numbers* report recommended (Rec. no. 37) that the duration of the undertaking sponsorship be reduced to three years for spouses, the government now only proposes to hold consultations with provincial governments regarding the possible reduction of the duration of such sponsorship undertakings.

The National Organization of Immigrant and Visible Minority Women of Canada (NOIVMWC) believes it would be very positive to reduce the sponsorship period to three years.

> Reducing the period of sponsor responsibility for immediate family from 10 to 3 years is a very good recommendation. It recognizes the importance of family interdependence, while acknowledging that some families break down. A reduction in time will help to alleviate violence in the family, which has been aggravated by the 10-year sponsorship requirement (NOIVMWC 1998: 3).

In addition, we consider that the duration of the sponsorship undertaking must never exceed three years to bring it in line with the minimum period of residency required to obtain Canadian citizenship. In any case, permanent residents who receive Canadian citizenship must be freed from the sponsorship undertaking in order to enjoy fully the rights associated with Canadian citizenship.

Recourse Taken Against Sponsors

The government announced its intention to ensure that the rules of the sponsorship regime are fully respected, to better preserve the "integrity" of sponsorship undertakings. Thus, immigration policy would ensure that sponsors are obliged to reimburse the state for any welfare payments made to the sponsored spouse.

> The government believes strongly in the principle of family reunification based on the responsibility of the family itself to provide the resources for supporting its sponsored members. Compliance with sponsorship undertakings is key to achieving integrity in the family class program. Default occurs when a sponsored immigrant whose essential needs were guaranteed by the sponsor for a set period receives social assistance (CIC 1998b: 26).

More specifically, the federal government wants to develop procedures to collect social assistance "overpayments" from sponsors who defaulted on their sponsorship undertaking, and whose spouses have received welfare. Implementation of this new policy is made more complicated by the fact that immigration is a matter over which the federal government has authority, and the sponsorship undertaking is signed between the sponsor and the federal government. A grant of social assistance, however, is made by provincial governments, from provincial coffers. Even though Quebec has implemented its own collection system against

defaulting sponsors, other provinces have not. Thus, the federal government is proposing either to undertake collection action and share the proceeds with the provinces, or devolve the responsibility for collecting the debts of defaulting sponsors to the provinces.

Government would also prohibit any sponsor who has already defaulted on a sponsorship undertaking, or anyone who has defaulted on court-ordered family support obligations, from sponsoring a family class member.[145]

We are of the opinion that the proposed measures in no way respect the fundamental right to family reunification, a point we discuss further on. On this subject, we support the opinion expressed by the CCR (1999: 7).

> On the proposed increase in enforcement of sponsorship undertakings, we note that implementation of such strategies to date has caused considerable hardship. We draw attention to the fundamental illogicality of recognizing the right of all people to family reunification and then requiring everyone to provide for support of family members without regard to their ability to pay. We emphasize the need to distinguish between bad faith and accidents which prevent the sponsorship obligations being observed (e.g., lack or loss of employment, illness). We do not oppose the enforcement of sponsorship obligations when sponsors who can pay wilfully refuse to do so. We oppose the pursuit of sponsors who are willing but unable. As a very bare minimum, there should never be payments required of people who are on social assistance.

The Table féministe francophone de concertation provinciale de l'Ontario (TFFCPO) states that low-income sponsors would be penalized if such an approach were taken and would not have the right to family reunification. Moreover, the Table féministe adds (1999):

> The rules established by the federal government should ensure that the relationship of control that results from the sponsorship undertaking is not exacerbated by the rules for recovering monies paid by social assistance to wives whose sponsors defaulted on their obligations [translation].

Suspension of Sponsorship Undertakings in Cases of Conjugal Violence

Although the *Not Just Numbers* report (Rec. no. 42) indicates that harmful physical or psychological treatment should be adequate grounds for rescinding the sponsorship undertaking, the government has opted simply to suspend it when a sponsor is convicted of conjugal violence.

Suspending sponsorship seems an inadequate response since it is a temporary measure and does not end the power relationship created by the sponsorship undertaking. In addition, it would seem important not to limit remedial measures to cases in which there has been a criminal conviction since we must respect the decisions of women who do not want to, or cannot press charges. The evidence required to establish that conjugal violence has taken place must take into account the particularities of this issue.

Prohibition of Sponsorship in Cases of Conjugal Violence

The government has announced its intention to prohibit sponsorship by persons convicted of crimes of family violence. The *Not Just Numbers* report made the same recommendations (Rec. no. 43). Any person found guilty of abuse or acts of conjugal or domestic violence would be prohibited from sponsoring immigration candidates for five years and only permitted to do so after this time has elapsed by providing evidence of rehabilitation. After this period, the convicted individual would send a rehabilitation application to a federal Resolution and Review Branch (ILRAG 1998: 128).

The authors are of the same opinion as the Barreau du Québec, which believes that this recommendation is punitive when it should be preventing domestic conjugal violence. The proposed measure could be considered under the terms of section 15 of the *Canadian Charter of Rights and Freedoms* on the basis that it constitutes double jeopardy.

There can be no doubt that specific measures must be adopted to reduce the vulnerability of immigrant women to conjugal violence. However, the authors do not believe the government proposals to limit access to sponsorship are really appropriate in this regard. It seems preferable to identify the structural causes of this violence (one of which is the sponsorship undertaking) in order to take preventive measures that are truly adequate and efficient.

Humanitarian Considerations and Conjugal Violence

The proposed legislative reforms provide no measures for relief to women who are particularly vulnerable to conjugal violence—those who are sponsored by their spouse and who are in Canada while their permanent resident status application is processed.

However, the Immigration Law Review Advisory Group has recommended, in its report, *Not Just Numbers* (p. 48):

> Sponsorship is one area of policy where provisions must be made to ensure effective—not simply technical—equality between the sexes, by addressing problems to which women are particularly vulnerable. Because of the legal consequences of sponsorship breakdown for both parties envisioned by our program, this undertaking can be used as an instrument of threat or intimidation in an abusive relationship. Some immigrants are reluctant to leave abusive relationships because of the possible effect on their immigration status.

Not only has the government neglected to develop specific measures to address threats or withdrawal of sponsorship, it proposes to reduce drastically the circumstances in which a person can claim permanent residence on humanitarian and compassionate grounds. Such a policy will undoubtedly increase the vulnerability of sponsored women who have not yet received landed immigrant status.

It seems relevant to present the comments from the Parkdale Community Legal Services (1998a: 6) with regard to the *Not Just Numbers* report.

> By doing away with the humanitarian and compassionate application, women in abusive relationships who have yet to be landed would be left with two choices—remaining in the relationship or being removed from Canada. The latter choice is difficult and may have dangerous implications if they come from a culture where, as divorced or single women with children, they may be ostracized by their community. Ultimately, the effect of the recommendation would cause women to stay in abusive relationships for fear of deportation from Canada.

Inasmuch as the government is proposing to handle permanent residence applications for sponsored spouses within Canada, while ignoring remedial measures in case the sponsor threatens or withdraws his sponsorship, it is increasing sponsored women's vulnerability to abuse and spousal violence.

Identity Document for Permanent Residents

The government plans to introduce a new identity document for permanent residents, to be renewed after an initial period of five years. The idea was essentially drawn from the *Not Just Numbers* report, which differs only in that it suggests a three-year period.

In our opinion, the proposal is intended to remind permanent residents that their status is not secure and that it may be revoked in various circumstances and on various grounds. The *Not Just Numbers* report (p. 38) indicates that since this status confers many rights and privileges "it is reasonable for Canada to expect a serious degree of commitment in return." The report stipulates that permanent resident status can be renewed provided proof is submitted attesting to physical residence for at least one year during the first three years in Canada and that income tax reports are provided (Rec. no. 30).

The CCR (1998: 23) quite rightly indicates that taking away permanence from permanent resident status is contrary to the objective of ensuring the full integration of immigrants.

> Taking the permanence out of permanent residence furthermore undermines the goals of integration: it would create a sense of insecurity and leaves us with the prospect of more people being unwillingly stripped of status (because for example they have gone to nurse a sick relative) or being unable to travel outside of Canada because they have not filed tax returns.

We share the CCR's concerns regarding the possibility of losing status for reasons that are not legitimate.

> Because of the ambiguity in the proposal to change the residency requirement, there are concerns that permanent residents might lose their status through failure to renew their card or through an inability to prove that they had been in Canada for the necessary time period. We are also concerned about the need to ensure that permanent residents be adequately informed in advance when they risk losing their permanent residence, to avoid painful misunderstandings about rights (CCR 1998: 23).

Conclusion

In examining the measures adopted in Quebec and the United States, as well as those proposed by the Department of Citizenship and Immigration, we have attempted to identify both the strengths and weaknesses of the current regime and efforts to reform it. In the following section, we make recommendations for further reform which we believe better address and advance the needs of immigrant women, and promote their constitutional equality rights.

2. REFORM OPTIONS

First, we attempted to come up with a reform that would fit into the current framework of sponsorship since sponsorship is the cornerstone of family class immigration. We tried to identify concrete solutions to eliminate discrimination and effectively promote the equality of immigrant women sponsored by their spouse. Our analysis allowed us to flesh out the corrective measures that could improve immigration law, such as reducing the duration of sponsorship and modifying the content of the sponsorship undertaking. These aspects are reflected in the first reform option.

However, at the end of this exercise, we realized some fundamental problems would remain insurmountable if we continued to insist on embracing the current sponsorship scheme. For this reason, we identified weaknesses inherent in an immigration policy that still hinges on sponsorship between spouses, as well as reasons why permanent resident status must be granted to spouses without subjecting them to a sponsorship undertaking. Last, we formulated some general recommendations that may be applied to each option.

Reform of the Sponsorship Regime between Spouses

How should we reform the sponsorship regime so equality rights and the other human rights of women immigrants sponsored by spouses are respected? The recommendations presented below provide some guidelines.

Reducing the Duration of the Sponsorship Undertaking

It is absolutely essential to reduce the duration of sponsorship if we wish to do away with the relationship of dependency that places women in a vulnerable position. The Government of Quebec took action in this regard in 1995 after recognizing that sponsorship creates a dynamic that reinforces relationships based on the control and subordination of women in couples. The federal authorities have been slow to follow suit, although they have announced plans to begin discussions with the provinces and territories to reduce the sponsorship period for spouses and children (see CIC 1999).

The sponsorship period should be reduced to three years to coincide with the minimal period of residency required to obtain Canadian citizenship. This reform would put an end to the discrimination that prevails since a permanent resident who becomes a Canadian citizen could, at last, enjoy all the rights associated with citizenship.[146]

Ensuring that Sponsored Women Have the Right to Social Assistance in Case of Sponsorship Breakdown

The state must no longer abdicate its responsibilities with regard to sponsored wives. It must respect their right to security as well as their social and economic rights as guaranteed under the *Canadian Charter of Rights and Freedoms* and the *International Covenant on Economic, Social and Cultural Rights*. It must act without discrimination and protect them in the same way that all Canadian citizens are protected. A sponsored woman who is forced to seek government assistance must not be refused social assistance if her sponsor fails to honour

his commitment. She has the right to receive the full amount of social assistance benefits available to her, especially since they are already below the poverty line. Consequently, we recommend that the existing restrictions and penalties, such as the automatic deduction of $100 for sponsored Ontario residents, be abolished.

Ensuring Protection Against Withdrawal of Sponsorship

The threat of withdrawing sponsorship is often used by abusive sponsors as an instrument of control and intimidation. This plays on a wife's fear of having to return to her country of origin and can trap her in a dangerous situation, especially in cases of conjugal violence. From the time the sponsorship undertaking is signed, the sponsor has an obligation to his wife, and immigration officials must ensure she is not penalized because sponsorship is withdrawn arbitrarily, for reasons of control or out of vengeance.

When the husband withdraws his sponsorship, it is imperative that immigration authorities notify the sponsored wife as soon as possible so she can exercise her rights within an appropriate timeframe.

A woman whose sponsorship is withdrawn can have very good reasons for not wanting to return to her country of origin. Immigration officials must be sensitive to these reasons and keep an open mind. They must grant a woman in this situation permanent resident status on humanitarian grounds, taking into account all the particularities of her situation, including the following elements:

- the circumstances surrounding her arrival in Canada, the good faith of the marriage, the duration of her stay in Canada, the presence of Canadian children or the fact that she is pregnant, and the presence of family or friends to help her in Canada; and
- the disadvantages, prejudices or dangers that would befall her were she to return to her country of origin, the social and cultural consequences of the breakdown of her conjugal relationship, the social status of a woman who is single, separated or divorced, employment prospects and any other factor that could violate her human rights.

The authorities must stop considering it negative for a woman not to report her case to the immigration office voluntarily. Often, women are not even aware that sponsorship has been withdrawn and that they are without legal status. Some women may also have very legitimate reasons to fear returning to their country of origin.

Currently, among the required criteria to be considered in assessing an application made on humanitarian grounds, immigration officials must determine if a woman is at risk of becoming a public burden in Canada. This requirement seems entirely unfair since it does not consider the fact that the dynamics of these women's conjugal relationships (created or exacerbated by sponsorship), combined with the socio-economic situation of immigrant women and the effects of racism and systemic discrimination, prevent many sponsored women from integrating into society and becoming financially self-sufficient.

Systematically Recognize Humanitarian Considerations in Cases of Conjugal Violence
We recommend that permanent resident status be systematically granted for humanitarian reasons in cases of conjugal violence. Applications to this effect could be presented after a withdrawal of sponsorship or before the withdrawal occurs to avoid prolonging situations that are dangerous for women.

The current criterion with regard to financial autonomy should be abolished since many women cannot meet it. Indeed, sponsored women are often without any financial resources and may even be completely destitute, without any work or job prospects, having to take care of one child or several children, living in complete isolation and unable to speak French or English. It is often impossible for them to convince immigration officials that they are financially self-sufficient.

The administrative fee of $500 for processing an application made on humanitarian grounds should be abolished since it unduly burdens economically disadvantaged women. In addition, immigration policies should include a definition of conjugal violence that encompasses physical, psychological, emotional and economic violence. All threatening and controlling behaviour that limits the autonomy and freedom of women should be taken into account.

It is excessive to demand that a sponsored woman show evidence that a sponsor has been convicted of abuse by a court of law. A great deal of flexibility should be shown in this regard, and this insurmountable burden removed. For example, a sworn declaration from the sponsored woman, a police report or any other credible and relevant evidence should be sufficient to establish that she has been abused.

Rescinding the Sponsorship Undertaking in Cases of Conjugal Violence
A sponsored woman who has received permanent resident status should not have to maintain contact with her sponsor if she has been subjected to conjugal violence. We recommend that the sponsorship undertaking be rescinded in these cases to terminate the relationship of subordination inherent to sponsorship.

Respecting the Rights of Low-Income People to Family Reunification
It is important to remember that immigration policy must facilitate family reunification without discrimination based on social status. This means that all spouses, rich or poor, must have the right to live together in Canada.

The current sponsorship regime penalizes low-income persons by imposing unrealistic obligations. Indeed, many sponsors, acting in good faith and to the best of their abilities, are unable to honour the sponsorship undertaking, which requires them to provide for the essential needs of their spouse and reimburse the social assistance that the spouse may receive. The government has the power to force the execution of the sponsorship undertaking by demanding that sponsors reimburse these sums in full, without taking into account their financial situation. Moreover, as discussed earlier, federal authorities have announced that they firmly intend to reinforce sponsorship obligations through collection actions. They plan to take legal action against defaulting sponsors to collect social assistance payments on behalf of the provinces or may transfer this authority to the provinces (CIC 1998b).

It seems unfair to demand that the sponsor agree in advance that for 10 years he will reimburse any social assistance benefits that may have been paid to his spouse when he may not necessarily have the means to do so. Indeed, his personal situation may change: he may lose his job, be the victim of an accident or his family life may have been shaken by some event. The sponsored woman's situation may also have changed, and the sponsor may not be responsible for these changes. Nonetheless, he is held responsible for reimbursing all the monies received by a sponsored woman in the form of social assistance.

Bringing Sponsorship in Line with Support Obligations

This situation is all the more inequitable because sponsors do not benefit from the rules that apply to all other non-sponsoring spouses. Indeed, other spouses must pay support, but only according to their ability to pay. This fundamental principle should, in all fairness, extend to sponsoring spouses.

It is essential to bring the sponsorship undertaking in line with domestic family law obligations. It should, therefore, specify that the sponsor agrees to provide for the essential needs of his sponsored spouse. To the extent that any obligation to reimburse social assistance benefits granted to her is imposed, they must be within the sponsor's financial ability.

Revising Eligibility Criteria

Since sponsorship is not meant to exclude spouses on the basis of income, it should be accessible to all, including those who receive social assistance benefits and those who may have defaulted on their contractual obligations under a previous sponsorship agreement.[147] Therefore, existing eligibility criteria should be changed accordingly.

Entrenching Women's Rights

It is also important to include a clause in the sponsorship agreement reminding spouses of their civil obligations to each other, such as equality within marriage, respect and mutual support. Moreover, it should be specified that the fundamental rights of sponsored women must be respected and that conjugal violence is a crime.

Providing Complete Information on Sponsorship Undertakings

Immigration authorities must take every possible measure to ensure that sponsored spouses are informed of their rights and legal obligations with regard to the sponsorship undertaking. Authorities should provide sponsored spouses with documentation written in clear, simple language and translated into their mother tongue. In addition, immigration authorities should completely change existing procedures by communicating directly with sponsored spouses throughout the processing of their permanent resident status application.

Since many sponsored women believe their sponsor can withdraw the undertaking after they have obtained the right to establish permanent residence, we recommend that immigration authorities take necessary measures to inform permanent residents of the rights and obligations associated with permanent resident status.

Abolition of Sponsorship between Spouses

Will these reforms be enough to guarantee the respect of immigrant women and the promotion of their equality rights and other human rights? Although reforms will likely yield some improvements, we fear they will not resolve the fundamental problems associated with spousal sponsorship, namely, the harmful effects of "undertaking" within the relationship and the privatization of obligations with regard to basic social and economic rights. For these reasons, as well as those presented below, we are in favour of a second option, which would grant permanent resident status to persons immigrating to Canada to live with their spouse, without subjecting them to the sponsorship undertaking.

Spousal Sponsorship Maintains the Patriarchal Paradigm

Even when the duration of sponsorship is reduced to three years, the "undertaking of responsibility" by the sponsor places women in a position of dependency, vulnerability and subordination in relation to their husband. As we have seen, sponsorship creates an insidious, unequal balance of power that can transform the dynamics of a couple and exacerbate the inequality of women in the long term. The undertaking of responsibility is legally entrusted to some men who use this position to reinforce their authority through threats and blackmail. In short, sponsorship reinforces control over women in the marriage and adds to their existing disadvantages, thus violating their right to equality. The harmful effects of sponsorship can far outlast the duration of the sponsorship undertaking.

The Threat of Withdrawal of Sponsorship Remains

Even if the reforms we have proposed, in the previous option, were implemented, the withdrawal of sponsorship remains a real danger up until landing is granted. Sponsored women will be even more vulnerable to this threat if the federal government goes ahead with its proposal to allow the processing of a landing application within Canada, while limiting recourse to humanitarian grounds in obtaining permanent residence.

Subjugation to Discretionary Power

However fair the guidelines may be for deciding to grant permanent resident status when sponsorship has been withdrawn, the interpretation and criteria for claims on humanitarian grounds are subject to the discretionary power of immigration officials. This situation lends itself to arbitrary decisions and subjectivity on the part of immigration officials who have often proven to be insensitive to the realities of immigrant women and conjugal violence. In addition, there are the difficulties of providing evidence that are inherent to conjugal violence and the fact that many immigrant women do not call on available services, such as shelters, health centres, hospitals, police stations or the courts.

Paying a High Price for Family Reunification Through Sponsorship

There is a high price to be paid by spouses who do not want to give up their plans to spend life together in Canada. On one hand, sponsors must accept a substantial debt load without necessarily having the ability to reimburse their debts. On the other hand, sponsored women must accept living in uncertain and insecure conditions, knowing they depend on their husband who does not necessarily have the means to provide for their needs and that they do not have full access to the public services normally made available to destitute persons. In

the end, immigrant families are penalized by these policies since they cannot count on the same government support provided to other families. This policy imposes the obligation of taking on expenses that the government normally assumes as part of its basic responsibilities in respecting the fundamental human rights of the population.

The Law Already Allows for Some Spouses to Immigrate Without Being Sponsored

The obligation imposed on immigrant families is applied in a discriminatory fashion since not all immigrant families are required to sponsor members of their immediate family. Indeed, an immigrant who meets the selection criteria can obtain permanent resident status for himself or herself as well as for "dependents on his or her application."[148] This provision allows for spouses who accompany immigrants to Canada[149] to be granted landing without having to qualify according to usual selection criteria. Immigrants who obtain permanent resident status as "accompanying dependents" are not sponsored. They obtain permanent resident status without being submitted to sponsorship regulations and can, therefore, benefit from social assistance. This rule, designed to facilitate family reunification, can be applied to three categories: independent immigrants (including self-employed workers, investors, entrepreneurs and assisted relatives), refugees whose status is recognized by the Immigration and Refugee Board, as per the Convention (para. 46.04(1) and 46.04(3) of the *Immigration Act*), and people belonging to designated categories (e.g., applicants who have not been recognized as refugees and live-in caregivers).

In comparison, Canadian citizens and permanent residents (as well as their sponsored spouses) are penalized because they must sign a sponsorship undertaking. The right to family reunification is, therefore, applied in a discriminatory fashion. Immigration policy must also guarantee that people applying for admission to Canada are subject to criteria that exclude any discrimination contrary to the *Canadian Charter of Rights and Freedoms* (Canada 1996: OP2, 12).

Clearly, the solution is not to impose sponsorship on spouses who obtain permanent resident status as "accompanying dependents" since this would only limit their fundamental rights. Rather, once and for all, we must fully recognize the right to family reunification by abolishing the sponsorship agreement between spouses.

The Right to Family Reunification Should Be Fully Recognized

The right to live with members of one's immediate family is formally proclaimed in the *Immigration Act*. Today, family reunification constitutes one of the key objectives of Canadian immigration policy. Indeed, the *Immigration Act* (paragraph 3c) expressly stipulates that Canada must facilitate the reunification of Canadian citizens and permanent residents with their close family members. As we saw in Part I of this report, the reunification of families has long been a fundamental part of Canadian immigration, and Canada has always favoured immigration of members of the nuclear family. In fact, members of the family class are exempt from the obligation to meet the usual selection criteria and from proving they have the financial capacity to respect their sponsorship undertaking with regard to their spouses and children.[150] The right to live with members of one's family is fundamental, and indirectly recognized in several international covenants and treaties such as the *Universal Declaration*

of Human Rights and the *International Convention on Economic, Social and Cultural Rights*.[151]

This right is fully and unconditionally applied to the spouses of immigrants who obtain permanent resident status in Canada as independents, as refugees according to the definition of the Convention and as members of designated categories. However, the right to family reunification is not granted in the same way to the spouses of permanent residents and of Canadian citizens, since they must be sponsored.

Given that sponsorship between spouses exacerbates the dependency and subordination of women within a marriage, deprives sponsored women of equal access to the social programs and benefits normally available to people in need, and demands a high price for family reunification, we recommend that permanent resident status be granted to the spouses of permanent residents and citizens who want to immigrate to Canada without subjecting them to the sponsorship agreement.

General Recommendations

Whether we choose the first or second policy reform option with regard to spousal sponsorship, it is important to put into practice the following principles, procedures and programs.

Include Common-Law Spouses and Same-Sex Spouses

The recommendation that was made above, to the effect that spouses of permanent residents and Canadian citizens be allowed to obtain permanent residency without being sponsored, would be incomplete without mentioning the urgent need to end the discriminatory practices against same-sex couples and common-law couples. We propose that the definition of "spouse" be amended to include married spouses as well as same-sex and other common-law couples.[152]

Allow Applications for Permanent Resident Status Within Canada

The full recognition of the right to family reunification demands that the obligation for spouses to apply for permanent resident status from outside of Canada be abolished. Applicants would not have to endure a separation while their application is being processed if they could apply on Canadian territory. It is important that all spouses, with or without legal status in Canada be able to benefit from this right.[153] It is recommended that they be granted the right to work, study and obtain access to social and health services while their application for permanent residency is being processed.

Introduce a Permanent Resident Visa

Given that permanent resident status is essential to ensuring the full integration of immigrants, a permanent resident visa, valid for an undetermined period, should be issued with no requirement for renewal.[154]

Offer Public Legal Education Programs

Since there is an urgent need to disseminate information about immigration regulations and how they are interpreted, we recommend that the government provide support and financial

backing for the development of public legal education programs for immigrant women. For instance, publish and distribute complete guides in several languages to immigration centres, community centres, women's groups, immigrant and refugee service providers, public libraries and on the Web.[155] Include information relating to the specific reality of women and, most important, describe the steps to be taken in cases of conjugal violence.

Integration Support

Since linguistic requirements discriminate against women, we oppose charging fees for introductory English or French courses for women who wish to obtain permanent resident status (ILRAG 1998: Rec. no 35).

In closing, we recommend that support for the integration of immigrant Francophone women be actively provided through training and employment programs and through other appropriate measures.

3. THE COMMUNITY FORUM

The two reform options presented in the previous chapter were discussed by the women who participated in the Community Forum on the impact of sponsorship on the equality rights of immigrant women, organized by the Steering Committee on Sponsorship of the Table féministe de concertation provinciale de l'Ontario.

During the weekend of May 1, 1999, approximately 40 immigrant Francophone women met to share their experiences with sponsorship, discuss its impact on women and suggest reforms to remedy the problems. Participants were sponsored women, workers from community organizations or women's groups, or activists working to defend the rights of immigrant women. Only a few professional women were invited. Almost all the participants were well acquainted with the experiences and problems facing Francophone immigrant women in Ontario, but also in Quebec, since some women from Quebec also joined the Forum.

The Forum was organized to facilitate in-depth discussions and to allow participants to benefit from individual experiences while providing enough time for collective analysis and consensus to emerge. Training sessions on the history of policy making, the current legal framework of sponsorship and a legal analysis of the impact of sponsorship on the constitutional rights of women were offered. A document for consultation, containing the main points of the themes developed in this report, was given to each participant on arrival. This document also contained an overview of the Quebec model and recent proposals by the federal government. Last, the document presented the two reform options set out in this report. The document proved to be very useful during the plenary discussion on the reform of federal immigration policy and provincial legislation that have a negative impact on the rights of sponsored persons.

In the meetings held over the two-and-a-half-day forum, participants were able to identify basic principles. First, they stressed that sponsorship is not an appropriate process in the case of spouses since the legal relationship created by sponsorship may introduce or reinforce an imbalance within the relationship: the woman loses her personal power and finds herself subjugated to the authority and control of her husband. This relationship severely impedes women's independence, increases vulnerability and places them in a position where it is easy for the husband to resort to abusive behaviour. As one participant said, sponsorship perpetuates "patriarchal law." Another participant stressed that women do not immigrate to Canada to be placed in a legal situation that subjects them to the will of their husband, and to live "below the standards they enjoyed in their own country." Others said the current regime is such that men feel they are protected by the law, as though they have been given the right to abuse their wife.

The participants feel the government should not entrust husbands with the mandate of "undertaking responsibility" for wives. For one thing, economic solidarity between spouses and other family members is already a golden rule in most immigrant communities, and it is not necessary to make a special rule between spouses. In addition, participants stressed that

family law already provides for the fact that spouses owe each other economic support, even after separation or divorce. Therefore, sponsoring one's wife is a redundant concept since spouses are already bound by the obligations of economic solidarity.

The participants also emphasized that sponsorship is yet another burden for immigrants and spouses in that it requires spouses to reimburse any social assistance benefits received regardless of any changes that might have occurred in their personal life or in their current financial situation. They recalled that before 1978, spousal sponsorship was not required, and they asked why the federal government has deemed it necessary for the last 20 years.

Moreover, participants stressed that society benefits directly from the immigration of women who settle in Canada to live with their spouse. Yet, this contribution is rarely recognized. On the contrary, sponsorship is based on the concept that the government is granting a favour to the sponsor (who sponsors his wife), by allowing him to bring an immigrant to Canada who would not normally be accepted. On one hand, this discourse ignores the fact that many women who immigrate as sponsored spouses are highly qualified individuals and, on the other hand, it does not take into account the value of the domestic work executed by women.[156]

Participants were unanimous in their opinion that acquiring citizenship should put an end to women's status as sponsored persons. If not, immigrant women and their families will continue to live as second-class citizens. Similarly, they agreed that that all people should have the right to social assistance and to the same benefits without any discrimination based on immigration status. The goal is to protect the most fundamental human rights, such as the right to food, shelter and health.

Based on these principles, participants reached a consensus (i.e., a unanimous decision) around the three main recommendations.

- Eliminate the requirement of spousal sponsorship.
- Reduce the sponsorship period for all family members to three years.
- Recognize without discrimination the right of sponsored people to receive full social assistance benefits.

Participants in the Community Forum also discussed the need to improve services to newcomers and to offer support to women at all stages of the immigration process. They stressed that current services are extremely limited and that workers are overloaded. Resources for Francophones are becoming increasingly rare (for example, there is not one Francophone women's shelter in the Toronto area) and even fewer services are adapted to the cultural and linguistic needs of immigrant Francophone women. Participants feel that if governments want to show newcomers they are accepted in Canada, they should provide the services necessary to ensure their well-being.

In addition, courses on the specific needs of Francophone immigrant communities (particularly communities from Africa, the Middle East and the Caribbean) should be added to university programs to train workers to respond to the needs of this clientele. Participants believe it is important to hone efficient methods for intervention among women in the neighbourhoods where they live. They also emphasized the importance of offering training in schools for children so they learn to respect others.

Social services and women's groups must also encourage recruitment of Black Francophone workers since these women do not necessarily have the same approach or the same kinds of solutions as White women and they could perhaps reach out to immigrant women more easily. Increasing the presence of women of colour in these services is also a way to guard against racist comments and attitudes toward immigrant women. In the same vein, participants stressed the need to recruit more culturally diverse personnel at Citizenship and Immigration Canada to better serve its immigrant clientele.

Last, participants insisted on the need to create public legal education programs. The written information currently available is inadequate: immigrant women must be able to participate in legal training workshops. Citizenship classes should also offer courses on constitutional rights. Legal information must be concrete and precise so women know what to expect and understand the nature of their legal relationships. It is important that legal education consider the possible misunderstandings between various countries. (For example in Haiti, the French term "to sponsor" [parrainer] means "to baptize.") Information must be realistic and must describe the law as it is practised and not be provided by "social workers who give out incorrect information." Participants stressed that immigrant women must be able to benefit from the support of legal experts who are in a position to give them information and support them in their efforts.

Participants then discussed the strategies they would like to implement in their efforts to obtain commitments from federal and provincial governments regarding policies and practices. More to come…

APPENDIX 1: CONSENT FORM

Department: The Centre for Feminist Research, York University

Participant's name and code number: _____

Project title: Spousal Sponsorship... For Better or For Worse
The Impact of Sponsorship on the Equality Rights of Immigrant Women

The goal of our research team is to determine the impact of the *Immigration Act* on women who are sponsored by their spouses, specifically the provisions regarding the sponsorship of members from the family class.

The research team is headed by Maître Andrée Côté, LL. B., LL. M.

This project was approved by the ethics committee for research at York University. There are no inherent risks in participating in this project, other than the unpleasant memories that may be triggered as you talk about relations with a spouse who may have been controlling or abusive toward you.

Your participation in the project will be limited to one interview of approximately two hours. Any information you provide that could reveal your identity will be kept confidential.

****

I have been informed and I am fully aware of the nature of the project and the interview process. I agree to participate in the project, and I understand that I may withdraw my participation at any time. I have been informed that any questions or comments regarding the project may be addressed to the committee by calling (416) 736-2100, extension 8888.

_____ _____

Participant's signature Witness's signature

_____ _____

Date Witness's name

APPENDIX 2: INTERVIEW GUIDE

I. Current situation

Before I begin the actual interview, I would like to ask you some very specific questions about your current situation. This will really help us understand what you tell us during the interview. These questions involve your immigration status, primarily, as well as other aspects that may have had an impact on your situation.
[The interviewer writes down the answers and tape records them as well.]

1. How long have you been in Canada? _____

2. What is your country of origin? _____

3. What is your current status in terms of immigration?
   In waiting _____ Resident _____ Citizen _____

4. Did you receive your permanent residence visa from outside _____ or from within Canada? _____

5. Are you married? separated? divorced? engaged? a common-law spouse?

6. Are your currently being sponsored? _____

7. Do you have children? Yes _____ No _____
   How many? _____
   Were they born: abroad? _____ in Canada? _____
   Are they all in Canada? _____ If not, where are they living? _____
   Were they sponsored? If yes, by you? by your spouse? by another person?

8. Languages
   Spoken languages: _____
   Language spoken at home: _____

Theme 1: The respondent's social and family context in her country of origin

1. What was your situation in your country of origin?
   What was your occupation? (We want to know if you were autonomous and financially independent.)
   - What type of formal education did you receive?
   - Did you have a big family back home? What was your family life like?

2. At that time, before you came to Canada, could you describe your relationship with your spouse or your future spouse?
   - Who made the decisions?

- Did you have a good relationship with him or were there problems?

Theme 2: The decision to immigrate

3. When you decided to come to Canada, how did it happen?
   - Where were you?
   - When did it happen?

4. Who decided that you would come to Canada?
   - Was it you?
   - Was it your spouse/fiancé?
   - Was it a joint decision?
   - How did the decision come about?

5. How did you feel at the time? Did you personally want to immigrate?

6. What difficulties did you envisage?

7. Did the decision affect anyone else (e.g., children)?

8. Did you come directly to Canada or did you come via another country? Which one?

Theme 3: Steps taken to obtain permanent residence (based on the respondent's situation)

Scenario A: Obtained permanent residence from her country of origin

1. What steps did you take to come to Canada?
   - Did you take steps on your own or with your spouse?
   - What obstacles and difficulties did you come up against at the time?

2. At what point did you decide to use the sponsorship process?
   - If you had not been sponsored, would you have still come to Canada?

3. What did the word "sponsorship" mean to you?
   - Was it explained to you? By whom?
   - How did you find out what it meant?
   - Did you have access to your sponsorship contract?
   - Did you know that the duration of the sponsorship undertaking would be 10 years?

4. What information did the Immigration Canada officers give you before you arrived in Canada?
   - about Canada (potential culture shock, integration services available, rights and obligations, women's rights);
   - about the immigration process (durration, steps, etc.);
   - Did you have access to your sponsorship contract at that time?

5. In hindsight, what kinds of questions would you have liked to ask?

6. What other information did you have about Canada before you arrived?
   - Who gave you this information (someone other than an immigration officer)?

7. From the time you took your initial steps, how long did you wait before coming to Canada?

8. Was the separation from your spouse difficult? In what ways?
   - communication problems
   - additional responsibilities
   - financial difficulties

9. Do you think this separation has affected your current spousal relations? Did it make relations more or less difficult? What were the specific difficulties?

10. When you arrived in Canada, what were the circumstances?
    - Did you have all of your children with you?
    - Did you take steps for them?
    - Did you come up against any problems?

11. If you were engaged, did you marry within 90 days following your arrival?
    - If not, what steps did you have to take?
    - Did you have any problems?

Scenario B: Filed an application for permanent residence within Canada

1. Under what status did you come to Canada? What steps did you take?

2. What happened when you came to Canada? What steps did you take with Immigration Canada?
   - at the border
   - in your city of destination

3. Did you marry your spouse in Canada, or were you already married?

4. What is your spouse's status? Do you share the same nationality?

5. What steps did you take to obtain permanent residence status? What steps did you yourself take? What steps did your spouse take?

6. At what point did you decide to use the sponsorship process?
   - What were the reasons?
   - How did you feel during this process?

7. What did the word "sponsorship" mean to you?
   - Was it explained to you? By whom?
   - How did you find out what it meant?
   - Did you have access to your sponsorship contract?
   - Did you know that the duration of the sponsorship undertaking would be 10 years?

8. Did you have any problems? What were they?

9. Did you require the services of a lawyer to settle the problem? If so, what was the problem you had to solve?

10. If you are still waiting to obtain permanent residence: Do you think that permanent residence will improve your situation? In what respects?
    - relations with your spouse
    - your financial situation
    - your ability to do the things you want to do

    Do you think that permanent residence will give you more rights in Canada? Which ones?

11. While you were waiting for permanent residence, did you feel you were in control of the situation?
    - If not, what did you find the most difficult?
    - At what point did you feel most vulnerable? Why?
    - How long did it take for you to obtain permanent residence?

FOR ALL RESPONDENTS

Theme 4: Arriving in Canada

1. Do you think the steps you took to come to Canada affected your children? Your family? What was the effect? Did they experience difficulties as well?

2. What do you think about the attitudes of the immigration officers who processed or who are processing your application?

3. When you arrived in Canada, did immigration officers provide you with information about your rights as a permanent resident?
   - Did they provide useful information?
   - Did you feel you could trust them?
   - Did they act arbitrarily?
   - What motivated their decisions, in your opinion?
   - Did they justify their decisions?
   - Could you give an example?

4. When you first arrived in Canada, where did you live?
   - How did you come to live there?
   - What were your expectations?

5. What were your first impressions of Canada?

6. Did you try to find a job right away? Are you working outside the home?

7. Is your family life here different from the one you had back home? In what ways?
   - in terms of your children
   - in terms of your husband

Theme 5: Sponsorship and spousal relations

1. Do you think the fact that you were sponsored changed your relationship with your husband?
   - Did it strengthen your ties with him?
   - Or did it create new conflicts? Which ones and what did they involve?

2. Did your spouse provide you with any support?
   - material
   - financial
   - information
   - psychological or moral
   - with the children

3. How did your spouse help you adapt to life in Canada? Did he help you make friends? Get to know the community?

4. Did the fact that you received this support change your relationship with your spouse?
   - Do you feel more vulnerable because you depended on him for support?
   - If not, why not?

5. Did the fact that you were sponsored come up in conversation?
   - Did your spouse use sponsorship to prevent you from doing what you wanted?
   - Did your spouse intimate that he could withdraw his sponsorship or have you deported from Canada?
   - Under what circumstances?
   - How did you react?
   - Do you think he has the right to withdraw sponsorship?
   - Did he prevent you from going out, seeing friends, etc.?

6. Have there ever been violent incidents in your relationship with your spouse? What kind of incidents?

- If so, what did you do?
- Did you contact the police?
- What was the outcome (charges laid, conviction)?
- What did you think of the attitude of police?
- Are you confident that the police or the courts can help you in this situation? If not, why?
- Did you call on social or community services? Which ones? Did they help you? How?

7. Are you still living with your spouse?
   - If not, describe how the separation occurred.
   - Did the question of sponsorship come up? How?
   - Did the separation have a positive or negative impact on your integration in Canada?

8. Was sponsorship withdrawn? Were you still able to obtain permanent residence (*or do you think that you still can*)? How?

9. Has your spouse ever refused to provide you with financial support?
   - What steps did you take?
   - Did you consider taking legal action against him?
   - If not, why not?
   - If so, what was the outcome?

Theme 6: Economic dependency

1. Do you have access to public transit or to a car?
   - Are you free to get around in the city?

If she works outside the home

2. What jobs have you held since you came to Canada?
   - Did you have difficulties at work? What were they? What were the major difficulties, in your opinion?

3. Are you employed? Describe your employment situation.
   - Has your situation improved or deteriorated?
   - For what reasons?

4. Do you feel you are a victim of discrimination at work?
   - What type of discrimination? By whom?
   - What have you done about it?
   - Have you thought about lodging a complaint with the Ontario Human Rights Commission?

If she works in the home

5. Can you describe a typical day?
   How do you spend your time during the day?

6. Do you have any support?
   What kind of support?
   From whom?

7. Would you like to find a job?
   If you wanted to find a job, what would help you?

Theme 7: Access to programs, services and information about rights

1. Have you attempted to go back to school or obtain vocational training since you arrived in Canada?

If so

- What courses?
- What type of courses?
- Who informed you about the courses available?
- What difficulties did you encounter?

If not

- Did you know that there are vocational training programs for women?
- Would you be interested in taking one?
- In your opinion, what is preventing you from taking a course?

2. Have you tried to attend language courses since you arrived? Was it important to you?

If she has taken language courses

- What courses (English or French)?
- What type of courses?
- Who informed you about the courses available?
- What difficulties did you encounter?

If she has not taken language courses

- Why not?
- Would you like to?

3. During your studies or training courses, did you receive help from other people?
   - What type of help (schoolwork support, child care, transportation)?
   - Who provided help or assistance (family, friends, neighbours, social workers, members of the community)?

4. Did you contact social or community organizations?
   - Which ones?
   - Why?
   - Were you satisfied with their services?
   - Did they help you solve the problem? How? Which organization helped you the most?

5. What happened when you addressed some of these organizations in French?

6. Are you familiar with the following assistance programs?
   - social assistance
   - legal aid
   - subsidized housing
   - health services
   - Office of Francophone Affairs
   - newcomer integration services

7. In your opinion, what were the major obstacles to receiving assistance from the organizations you contacted?
   - lack of services offered in French
   - overall inaccessibility (hours, location, etc.)
   - discrimination (what form?)
   - poor understanding of your culture

8. How did you overcome these obstacles?
   - Did you contact women in similar situations?
   - Who did you rely on for help?

9. Did the fact that you were sponsored prevent you from accessing certain programs?
   - What type of programs were you looking for that were not accessible? Why?
   - Who told you they were not available to you?

10. Did you call on legal aid?
    - Why?
    - How did it work out?

Theme 8: Social integration

1. Have you made new friends in Canada? Within your cultural community or within other communities?
   - Are you involved in social or community activities?
   - What organization (or other) has been (or is being) the most effective in making you feel at home here?

2. Do you think your life in Canada has given you something you didn't have or could not have had or experienced before?

3. Do you often think about returning to your home country? What things in particular do you think about?

4. Do you sometimes feel distrust or hostility from your neighbours, classmates, colleagues or other people around you?
   - How are these attitudes manifested?
   - How do you react?
   - In your opinion, what are the reasons behind these attitudes?

5. In your opinion, what were the major obstacles to your integration?
   - language
   - discrimination (what form?)
   - other (culture, personality)

6. Have you met with a citizenship judge in order to become a Canadian citizen?
   - If so, what did you retain from what he or she said?
   - If not, do you intend to become a Canadian citizen?

7. What does it mean to you to become a citizen?

8. Do you think you will have more rights if you become a citizen?

Theme 9: Obstacles

1. How have you dealt with the difficulties you have encountered since you arrived in Canada?
   - economic difficulties
   - marital difficulties
   - problems with your children
   - societal attitudes
   - attitudes of your cultural community

(This is a "summary" question; it should be asked each time a women speaks about the difficulties she faced, she can take stock of her strengths and so we can understand the strategies employed by women in the face of adversity.)

2. What were the steps you took that helped you the most?

3. If you had to give advice to other women preparing to come to Canada, what would you tell them?

Theme 10: Reforms

1. What changes to immigration rules and procedures would you propose in order to improve the situation of immigrant women?

2. What status would you have wanted to have when immigrating? What status would you want to have now as an immigrant woman (sponsored, permanent resident, refugee, citizen)?

3. In terms of sponsorship, what did you consider to be:
   - an obstacle to your personal development?
   - the most difficult?
   - the most beneficial?

4. What aspects of sponsorship most urgently require change, if in fact you believe there is a need for change?
   - providing accurate information
   - the sponsorship undertaking period
   - the waiting period for permanent residence
   - the length of the separation (outside the country)
   - the question of children
   - spousal dependency

5. We are planning to organize a community forum on the issue of the sponsorship of women in order to propose reforms. Would you like to participate?

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ENDNOTES

[1] The Table féministe francophone de concertation provinciale de l'Ontario has existed since 1992 and includes approximately 20 member groups, most of which are provincial or regional organizations. The Table féministe's mandate is to facilitate co-ordination among Francophone women's groups and to intervene on the political stage to promote the rights of Francophone women. It strives to promote the equality of all women through various research, training or intervention projects, and follows principles of equity to encourage the participation of women from diverse backgrounds.

[2] For an overview of this initiative, see Coté (1998: 108). Provincial consultation and co-ordination reports can also be viewed on the Table féministe Web site at the following address <www.francofemmes.org>.

[3] In the part of this report devoted to the women interviewed, the authors wanted to reflect the very strong emotions and sentiments evoked by the experience of sponsorship; sometimes, certain aspects of their experiences had to be set aside.

[4] The "research group" included an anthropologist, responsible for the socio-anthropological aspects of the project, a social worker, a sociologist and two legal experts (one of whom was responsible for managing the entire project with the funding agencies). Three research assistants (in the fields of sociology, law and social services) helped with documentary research, and one also conducted interviews with the sponsored women and participated in all the meetings and discussions. Some researchers were born in Canada, while others had personal experiences with immigration (one very recently and in difficult circumstances).

[5] For a detailed and very instructive description of research conducted among a group of immigrant women by a team that was, itself, multicultural, see Vatz Laaroussi et al. 1995.

[6] We should specify here that the team wanted to ensure that the interviewers were well acquainted with the issues surrounding immigration—most often because they had personal experience in this area and not because they belonged to the same social network or because they shared the same national origin as the woman interviewed. The authors subscribe to the idea developed by Michèle Vatz Laaroussi (1999: 39) that some perverse effects can manifest themselves in cases of homoethnicity between the interviewer and the interviewee ("the interview is transformed into a discourse of complicity or restraint of the interviewee who is faced with the threat posed by an interviewer who 'knows', who 'is acquainted with' the interviewee and who has a socio-political position that may be contrary or suggest potential betrayal.") As Vatz Laaroussi says regarding research carried out by a group of researchers at the Université de Sherbrooke, "over and above the common language, the common country of origin and the ethnic community, it was the collective experience of the singular trajectories of migration that allowed these women, one an interviewer, the other the interviewed, to come together on common concepts, shared emotions and, sometimes, in open confrontations."

[7] For example, by targeting various linguistic or cultural characteristics or, as is the case today, phenotypic characteristics (skin colour or shape of the nose or eyelids).

[8] It is interesting to note that narratives or stories are a method widely used by critical race theorists in the United States.

[9] This is not to say that a macro-social study is without any interest. On the contrary. As we show later, while current statistics on sponsored persons make connections between the status of the sponsored person and civil status, sponsorship and gender, or age or ethnic/national origin, they do not propose any connection or correlation between these different variables. It is our hope that future research will address this matter.

[10] Key words: women/immigration/policy/sponsorship/immigrant/Canada.

[11] The authors thank Lorraine Albert of the University of Ottawa library for her help with this data base.

[12] Fluency in French does not necessarily constitute an enormous advantage for integrating into the Ontario job market and gaining access to services. However, it can provide access to some segments of society since there are Francophones in some contexts or institutions in Ontario—particularly in education. Contacts are possible with school–parent committees or meetings with academic or employment counsellors or priests who can make a "difference." Of course, this does not mean that the community of origin is insensitive to the calls of women in difficulty. It does, however, point to circumstances (number, time since settling, political reasons for settling in Canada, etc.) that should be documented in future research.

[13] Not necessarily in their country of origin, since some respondents found themselves in a third country at the time of their sponsorship.

[14] These four cities were chosen for the diversity of situations they represented. Many Francophone immigrants reside in Ottawa, a city that has seen significant increases in its number of newcomers. The city has a relatively solid network of services in French, particularly in the area of violence. Sudbury is a smaller city, where Francophone immigration, particularly the immigration of professionals, is not only a tradition, but is on the increase (Diallo and Lafrenière 1998). The question of how solid the network of services offered in French really is remains unanswered. Hamilton occupies third place in Canada as the city chosen by newcomers (Weintraub 1998); Toronto is the city most favoured. The Francophone community is more fragmented in Toronto than elsewhere, but some services exist in French. Networks in the four cities develop differently, and accessibility to assistance varies. The intention here is not to compare the four cities. Rather, they were selected to diversify the sample of respondents as much as possible.

[15] The impact of sponsorship on children has not been studied in detail since interviewers chose to let the women express themselves freely on this question. Nonetheless, women's

strategies for gaining autonomy are often developed in the name of the well-being of children, as we see in Part II.

[16] Preparatory training was carried out and a note summarizing the essential steps involved in the analysis of the qualitative data was distributed to all the researchers.

[17] Although there are a number of general history books on immigration (Hawkins 1988; Kelley and Trebilcock 1988; Tulchinsky 1994) and sponsorship (Racine 1988) as well as works on the racism of past immigration policies (Bolaria 1985; Matas 1996), there is no general history of immigration in which gender forms the focal point of the analysis. A broad picture has still not been painted of the historical impact of the status of "dependent" or "sponsored" wives on the condition of immigrant women.

[18] In 1885, an act to restrict and regulate Chinese immigration into Canada was passed, providing that no vessel carrying Chinese immigrants to any port in Canada should carry more than one such immigrant for every 50 tons of cargo; and that every person of Chinese origin entering Canada at a port or other place of entry should pay a head or entry tax of $50 (Hawkins 1988: 19).

It was only in 1947 that immigrants of Chinese origin were given the right to vote.

[19] Here is the clause, in its entirety, intended to preserve a "White Canada" (the term used at the time), which remained in effect for 50 years.

> Prohibit or limit in number for a stated period or permanently the landing in Canada, or the landing at any specified port or ports of entry in Canada, of immigrants belonging to any nationality or race or of immigrants of any specified class or occupation, by reason of any economic, industrial or other condition temporarily existing in Canada or because such immigrants are deemed unsuitable having regard to the climatic, industrial, social, educational, labour or other conditions or requirements of Canada or because such immigrants are deemed undesirable owing to their peculiar customs, habits, modes of life and methods of holding property, and because of their probable inability to become readily assimilated or to assume the duties and responsibilities of Canadian citizenship within a reasonable time after their entry. *(Statutes of Canada*, 1919, ch. 25, s. 13).

[20] The authors note that this discriminatory provision with regard to women spurred the "homestead-for-women movement" which gained momentum after the turn of the century. If women wanted to settle on their own land, they had to purchase it at full value, without any government assistance.

[21] This is the meaning of s. 42, para. 5 of the *Immigration Act* of 1910, in force until 1952:

> In any case where deportation of the head of a family is ordered, all dependent members of the family may be deported at the same time. And in any case where deportation of a dependent member of a family is ordered on account of having become a public charge, and in the opinion of the Minister such circumstance is due to willful neglect or non-support by the head or other members of the family morally bound to support such dependent member, then all members of the family may be deported at the same time. Such deportation shall be at the cost of the persons so deported (*Statutes of Canada*, 1910, ch. 27, s. 42).

[22] Many writers, including Hawkins (1988, 1991), attribute these restrictions to the Great Depression that rocked North America in 1929 and the wave of mass unemployment that began in 1930. This is certainly true, but the fact remains that the racist provisions of the various orders-in-council of 1923 clearly indicate Canada's closed-door ideology. For an analysis of the hegemonic racism rampant in Canada during the first half of the century, refer to Valverde (1991), specifically chapter 5 entitled "Racial Purity, Sexual Purity and Immigration Policy," pp. 104-128 and McLaren (1990).

[23] This aspect of women's immigration has been the focus of many compelling studies that reveal the constant intersecting of gender and race relations. See Bals (1992), Calliste (1989), Daenzer (1993).

[24] "The policy of the government is to foster the growth of the population of Canada by the encouragement of immigration. The government will seek by legislation, regulation and vigorous administration, to ensure the careful selection and permanent settlement of such numbers of immigrants as can be advantageously absorbed in our national economy," declaration by Mackenzie King (Hawkins 1988: 91-93).

[25] The *Immigration Act* of 1952 is Canada's third law on immigration. The previous one, dating back to 1910, was amended in 1919. All other provisions were adopted through orders-in-council or registered in regulations and guidelines. The tradition of managing Canadian immigration policy through administrative decrees continues today although, since the 1960s, immigration policy has increasingly become the object of debate. It is a tradition that rendered the historical analysis of immigration law extremely complex, and is an approach that circumvents the role of legislative power and impedes transparent political debate (Hawkins 1988: 101).

[26] "The husband or wife; the son, daughter, brother or sister, together with husband or wife and unmarried children; the father or mother; the orphan nephew or niece under 21 years of age; or any person legally resident in Canada who is in a position to receive and care for such relatives." *Statutory Orders and Regulations*, Consolidation 1949, p. 2187, section 4. Paragraph 5b), which was added to this general provision, stipulated that an agriculturist entering Canada to farm could be accompanied by "his father, father-in-law,

son, son-in-law, brother, brother-in-law, uncle or nephew." The formal or official ownership of land by women was still inconceivable.

[27] The use of the term "immediate family" in the text refers to the nuclear family composed of spouses, their children (adopted or not) and the parents of spouses. This definition is important in that it provides a distinction from "close relatives," which includes brothers, sisters, uncles, aunts, cousins, nephews and nieces.

[28] Example of the debate in Hawkins (1988 : 6). One of the members of Parliament asserted that the application of a regulation of 1959 designed to reduce the relatives that could potentially be sponsored constituted an unnecessary and cruel act. The following is an excerpt from his speech, cited in Hawkins (1988: 122): "The reason it was done, sir, was that when the government realized that more people of Italian origin than people from the United Kingdom came in last year, they got in a panic. They were afraid of many of their political supporters, and they felt they had to do something about it. Then they did this stupid, cruel, silly and inhuman thing."

[29] There are some major gaps in the history of non-British women who immigrated to Canada, according to Iacovetta (1997: 24). It is important to recognize the agency of these women in Canadian immigration, so as not to depict them as exclusively passive and submissive.

[30] In 1967, the decision to no longer base access to Canada on preferences of national or ethnic origin was implemented. In fact, the 1967 Regulations gave immigration officers the power to determine the type of skills that would be desirable among immigrants, which opened the door to restrictive interpretations based on the particular ideologies and political opinions of immigration officers.

[31] This despite the fact that paid work had long been prevalent among immigrant women.

[32] During the 1960s, for example, the "blue helmets" were born under Canada's stewardship (Simmons 1998: 95).

[33] In 1993, the management of this class was fully aligned with that of independent immigrants.

[34] The figures show that between 1994 and 1996, the number of newcomers of African and Middle Eastern origin rose (1994: 13.13 percent; 1995: 15.47 percent; 1996: 16.11 percent), while the numbers remained about the same for the other source regions (CIC 1996).

[35] For our purposes, it is not possible to explore all the practices and provisions that have caused so much ink to flow with regard to the racist and sexist content of Canada's *Immigration Act*. See, for example, Simmons (1998) and Stasiulis (1997). The domestic workers program is an obvious example, but so too "by default" are a number of

provisions, such as human resources allocated to processing case files, insufficient funds for integration, etc.

[36] In order to demonstrate the full scope of the issues raised by immigration policy since the 1980s, it would be important to include in this brief history an analysis of public policy pertaining to the diversity of Canada's immigrant population, specifically multicultural policy introduced at about the same time as the *Immigration Act* of 1976. Such an analysis would focus on the "integration" aspect of immigration policy. Given the specific purpose of this report, which deals exclusively with the issue of spousal sponsorship, this aspect of policy making, although important to our understanding of the place of immigrant women in terms of the general workings of immigration to Canada, unfortunately, could not be addressed.

[37] In the admission classes published by Citizenship and Immigration Canada, the figures are not presented according to gender. It is, therefore, impossible to speculate on the gender of "dependent" persons arriving in Canada accompanying a male or female principal applicant or as a sponsored husband or wife. Wherever figures do exist with regard to age or gender of persons admitted in the family class, kinship between the persons sponsored and the sponsor is not specified. Furthermore, wherever figures regarding the civil status of persons in the family class are given, information on gender is not provided. Tables with the source regions of persons arriving in Canada under the family class do not indicate gender, age or kinship between the sponsored person and the male or female sponsor. In short, the statistics published by the department responsible for immigration policy do not point to any significant statistical links that could be used to propose and develop policies that take into account gender relations. As a result, the specific problem of sponsored wives is, unfortunately, overlooked in the general considerations on immigration policy. Once again, the situation of sponsored women is relegated to the unspoken realm pertaining to women which has long characterized Canadian immigration policy, and which we have already referred to several times in this document.

[38] "Our focus must shift away from selecting individuals on the basis of specific occupation. Instead, we must select individuals, who demonstrate qualities that will allow them to adapt to the ever-changing global economy." (CIC 1995: 10).

[39] From a conversation with a Citizenship and Immigration Canada representative, the *Toronto Star* printed the following statement regarding the selection process adopted at that time: "It's not a bar to entry, but it will be difficult.... We're looking for immigrants who can hit the ground running" (cited in Foster 1998: 73).

[40] Provincial and municipal governments, as well as school boards, were in charge of many settlement services. The federal government, through the intermediary of certain departments (Citizenship and Immigration Canada, Heritage Canada and Human Resources Development Canada), also provided funding for settlement services by subsidizing those offered by non-governmental organizations. Citizenship and Immigration Canada has, for example, several funding programs in place for language

training programs (Language Instruction for Newcomers to Canada – LINC, Labour Market Language Training – LMLT, Resettlement Assistance Program – RAP and the Host Program). The complexities of funding for organizations that provide direct services to immigrants have severely weakened their capacity to secure adequate funding on an ongoing basis.

[41] According to a 1998 report presented to Human Resources Development Canada, women are the hardest hit by these reforms (*Globe and Mail* 1999: A1 and A12).

[42] In legal terms, "immigrant" designates a person who requests the right to come into Canada to establish permanent residence (*Immigration Act* of 1977, ch. 52, s. 2).

[43] The independent immigrant class consists of investors, entrepreneurs, self-employed workers and assisted relatives.

[44] "Sponsor" is the term used in the *Immigration Act* to designate the person who accepts an undertaking of sponsorship.

[45] Section 5(2)h) of the *Immigration Regulations*, 1978, DORS/78-172, as amended.

[46] The family class consists of the persons listed in section 2(1) of the *Immigration Regulations*:

- the sponsor's spouse
- the sponsor's dependent son or daughter who

(a) is less than 19 years of age and unmarried, or

(b) is enrolled and in attendance as a full-time student in an academic, professional or vocational programs at a university, college or other educational institution and

(i) has been continuously enrolled and in attendance in such a program since attaining 19 years or, if married before 19 years of age, the time of marriage, and

(ii) is determined by an immigration officer, on the basis of information received by the immigration officer, to be wholly or substantially financially supported by the parents since attaining 19 years of age or, if married before 19 years of age, since the time of marriage, or

(c) is wholly or substantially financially supported by the parents and

(i) is determined by a medical officer to be suffering from a physical or mental disability, and

(ii) is determined by an immigration officer, on the basis of information received by the immigration officer, including information from the medical officer referred to in subparagraph (i), to be incapable of supporting herself/ himself by reasons of such disability (*Immigration Regulations*, s.2 (1);

- the sponsor's father, mother, grandmother, grandfather
- the sponsor's brother, sister, nephew, niece, grandson or granddaughter, who is an orphan and is under 19 years of age and unmarried;
- the sponsor's fiancé or fiancée
- any child under 19 years of age who the sponsor intends to adopt

- one relative regardless of the age or relationship of the relative to the sponsor, where the sponsor does not have a family member in Canada, or relative outside Canada whom the sponsor may otherwise sponsor.

[47] Section 3c) of the *Immigration Act* stipulates that family reunification is one of the Act's specific objectives.

[48] These criteria may involve, among other things, age, education, work experience, job opportunities, ability to invest successfully in the local economy and financial resources.

[49] Marriage refers to conjugal ties recognized as a legitimate union under the laws of the country where the marriage was contracted (section 2(1) of the *Immigration Regulations*).

[50] Since 1994, administrative guidelines recognize the legitimacy of common-law and same-sex unions. The application of these guidelines is at the discretion of the person responsible for making the decision, which has led to a lack of transparency and complaints regarding inequality in the processing of applications (CIC 1999).
See also Bagambire's comments (1996: 16): "Also, the definition of 'marriage' embodies a Eurocentric concept, and excludes polygamous marriages which are otherwise legal in many third world cultures, from which come a sizable number of today's immigrants."

[51] The law permits the sponsorship of a fiancé provided there are no legal obstacles impeding the marriage under the laws applicable in the province of residence in Canada. The granting of permanent residence is conditional to the celebration of the marriage within 90 days of the fiancé's landing in Canada (*Immigration Regulations*, section 6(1) d)). If this condition is not met, for whatever reason, permanent residence status is revoked.

[52] This can take up to four years according to the immigration law experts consulted during this study.

[53] The following admissibility criteria are applicable:
- in the case of a permanent resident, the person is not subject to a removal order or a conditional removal order;
- the person is not confined in any penitentiary, jail, reformatory or prison;
- the person is not bankrupt;
- the person is not in default in respect of any obligations that the person has assumed under any other undertaking (sections 2(1) and 5 of the *Immigration Act*).

[54] See Blackell (1995: 422), *Sivacilar*. The *Immigration Manual* (IP-1, p. 17-18) addresses protocol in case of the withdrawal of sponsorship. It states that a sponsor who wishes to withdraw his commitment can do so by presenting himself at the Canada Immigration Centre or by notifying the Immigration Case Processing Centre by mail. The request to revoke a sponsorship application is accepted if the sponsor can prove his identity and if the spouse has not yet been granted landing status. The foreign visa office is notified immediately by fax or electronically, and the application process is terminated. It is important to mention that the protocol described in the *Manual* stipulates that the

sponsor must be notified by the immigration officer that the sponsorship application has been officially withdrawn. The *Manual* does not, however, state any obligation to notify the sponsored woman of the withdrawal.

[55] The *Immigration Manual* (Canada 1996) lists various factors for detecting these types of marriages such as differences in age, race, religion or culture, the number of previous divorces, circumstances and duration of the relationship, as well as the way in which the marriage was celebrated (*Immigration Regulations*, section 4(3); *Immigration Manual* OP 2, pp. 23-24). An immigration officer who rejects an application for permanent residence because the marriage is not considered authentic must, however, provide proof to support the decision.

[56] Visa officers make only one recommendation when issuing visas since the holder must be considered admissible at the point of entry prior to the expiry date of the visa. A visa gives the holder the appearance of the right to enter Canada, as a visitor or immigrant, as the case may be (Jarry 1991: 196).

[57] The sponsor's obligations, under the agreement of undertaking, take effect once permanent residence status has been obtained. The sponsor has the right to withdraw his undertaking up until that point.

[58] The status of a female immigrant in Canada who does not hold a permanent residence visa may vary greatly depending on the particular circumstances, for instance if the woman has a valid or expired visitor, work or study visa. The woman may have applied for refugee status and is waiting for a decision by the Immigration and Refugee Board or from the Federal Court of Canada, or received a negative ruling from these bodies. She may be in an illegal situation which could result in removal or even arrest.

[59] Section 114(2) of the *Immigration Act* stipulates that:

> The Governor in Council may, by regulation, authorize the Minister to exempt any person from any regulation made under subsection (1) or otherwise facilitate the admission of any person where the Minister is satisfied that the person should be exempted from that regulation or that the person's admission should be facilitated owing to the existence of compassionate or humanitarian considerations.

Adopted in 1993, subsection 2.1 of the Regulations eliminates the need to obtain an order-in-council in order to benefit from the application of section 114(1):

> The Minister is hereby authorized to exempt any person from any regulation made under subsection 114(2) of the Act or otherwise facilitate the admission to Canada of any person where the Minister is satisfied that the person should be exempted from that regulation or that the person's admission should be facilitated owing to the existence of compassionate or humanitarian considerations.

[60] Since the *Immigration Manual* (Canada, 1996, IE 9.14) does not contain a procedural rule to this effect, it is up to the immigration officer's discretion to summon the spouses to an interview and to request additional documents in order to verify the authenticity of the marriage. The immigration officer need only have a reasonable doubt with regard to the good faith of the marriage to justify the refusal to process an application for permanent residence in Canada (ILRAG). However, according to the report *Not Just Numbers*, immigration applications processed in Canada are almost always approved on humanitarian grounds (94 percent of the time in 1996).

[61] While the candidate's application for permanent residence is being processed, she may apply for a temporary work permit (subsection 19 (4)i of the *Immigration Regulations*).

[62] As previously mentioned, it remains valid even if the sponsor decides to withdraw his sponsorship undertaking once landing has been granted.

[63] As previously mentioned, a women who obtains permanent residence as a fiancée must marry within 90 days following her entry into Canada, otherwise she may lose her status.

[64] Note that prior to April 1997, sponsored women were not "party" to the sponsorship contract. The only two parties involved were the federal government and the sponsor. According to the provisions of the contract, women had no legal recourse against sponsors who failed to fulfil their obligations. There is only one reported case in common-law (outside Quebec) involving a situation in which a sponsored person attempted to sue the sponsor for failing to respect his obligations under the sponsorship agreement. In the case of *Bilson v. Kokotow*, Mr. Bilson and his family had immigrated to Canada from Russia after his brother-in-law promised to provide him with a job and a place to live in Canada. The job never materialized and Mr. Bilson filed legal proceedings, alleging that Mr. Kokotow had failed to fulfil the promise he had made to him. The question the jury faced was whether a sponsored person could sue the sponsor, even if that person is not a signatory on the sponsorship agreement. The Court answered this question, stating that only contract signatories would file proceedings for breach of contract.

Madame Justice Van Camp, from the Ontario High Court of Justice, wrote, on this matter:

> If any action is to be brought on this sponsorship declaration, the action must be that of the Minister or the Government of Canada which has not been joined as a party to this action. Although the sponsorship declaration was made expressly for the benefit of the plaintiff, he cannot enforce the declaration against the defendant Albert Kokotow.... There was no agreement or no reference in the declaration that the plaintiff should be entitled to sue Albert Kokotow by reason of it. There was no evidence adduced of any statutory right to sue on a sponsorship agreement.

She adds that the Government of Canada is not responsible for the well-being of the sponsored person, and cannot be forced by the latter to take legal action in case of default on obligations:

> I cannot find that the Government of Canada was trustee for the plaintiff in requiring that this sponsorship declaration be made. It may well be that in another action wherein the Government of Canada is a party it may be established that the responsibilities of the sponsor who signs such a declaration and what, if any protection is given by such declaration to the person entering Canada by reason of such declaration. But this is not such an action.

The ruling by Madame Justice Van Kamp was confirmed by the Court of Appeal for Ontario and the appeal presented to the Supreme Court of Canada was denied. According to some of the experts we consulted, this ruling put an end to the question of sponsored persons' recourse against the assisting relative.

[65] The Parties understand and agree there are legal consequences if the Sponsor (or Co-signer) does not provide support within a reasonable time when asked to do so by the Immigrant, as set out in this Agreement. The Immigrant or anyone to whom the Immigrant has assigned this Agreement, or any part of this Agreement, may take action in a court of law against the Sponsor (or Co-signer or both) for damages for breach in terms of this Agreement. It is further agreed that damages will not be less than the total of all amounts actually received by the Immigrant and his or her dependents from any federal, provincial or municipal social assistance program in Canada after the breach has occurred.

[66] To create an enforceable contract there must be "reciprocal undertakings." So if one party is neither giving anything, nor is promising to do or give anything, there is no consideration for the other party's act or promise. What is meant here by the expression "value" must not be taken in a literal, entirely materialistic sense. In most instances, of course, it will be money or money's worth that is involved. But it is not so exclusive. Consideration means something which is of some value in the eyes of the law. This could include some act, or promise of an act, which is incapable of being given a monetary value, though it has value in the sense of advantage for the party who is the present or future recipient or beneficiary of the act (Fridman, pp. 83-84).

[67] The social assistance programs listed in Schedule VI include:

- "assistance" under the Resettlement Assistance Program;
- "income assistance social service" under section 2 (1) of British Columbia's *Guaranteed Available Income For Need Act* (R.S.B.C. 1979, chap. 158);
- "assistance," "municipal assistance" or "social assistance" under the *Social Allowances Act* (R.S.M. 1970, chap. S-160);

- assistance under the *Social Welfare Act* (R.S.N.B. 1973, chap. S-11);
- social assistance under the *Social Assistance Act* (R.S.N. 1970, chap. 353);
- "assistance" under the *Social Assistance Act* (S.N.S. 1970, chap.16);
- "benefits" under the *Family Benefits Act* (S.N.S 1977, chap. 8);
- "assistance" under the *Welfare Assistance Act* (R.S.P.E.I. 1974, chap. W-4);
- "assistance" under the *Saskatchewan Assistance Act* (R.S.S. 1978, chap. S-8); and
- "handicap benefit" under the *Assured Income for the Severely Handicapped Act* (R.S.A. 1980, c. A-48).

[68] To respect the anonymity of the women interviewed, their first names are fictional. Place names and dates have been left out and some biographical details have been changed. In some cases, the authors chose not to attribute a statement to a particular woman in order to protect her anonymity. In the rare case when specific places are mentioned, other details were changed to prevent a particular case from being identified.

[69] As we see in Chapter 3, the absence of a work permit during the waiting period for permanent residence does not explain all of the difficulties related to entering the job market. Failure to recognize non-Canadian diplomas and work experience, in addition to the systemic discrimination facing women of colour, constitutes a major obstacle to finding a job suited to their career profile.

[70] In addition to the direct accounts of the women interviewed—who described the socio-political realities of their countries of origin and their fear of losing their children—one must consider the potential difficulties within their own families and their husbands' families as women who have separated or divorced their husbands. In some societies—as described by some women of African origin—these attitudes are difficult to bear materially as well as psychologically.

[71] Notably, in the *Canadian Bill of Rights*, S.C., 1960, chap. 44, R.S.C. (1985), Appendix III.

[72] Part 1 of the *Constitution Act, 1982*, i.e., Appendix B of the *Canada Act 1982*, chap.11 (U.K.).

[73] It is important to note that the rights to equality provided in the Charter do not affect the private domain, for example, the renting of a home, the reservation of a hotel room or the sale of merchandise in a store, but rather target the rights to equality in legal texts and government practices. Article 32 of the Charter states that it applies "to the Parliament and government of Canada in respect of all matters within the authority of Parliament including all matters relating to the Yukon Territory and Northwest Territories" and "to the legislature and government of each province in respect of all matters within the authority of the legislature of each province."

[74] As Professor Martha Jackman wrote (1998: 364), "where a facially neutral law or policy can be shown to have a disparate, disadvantageous impact on an enumerated or analogous group, it will be found in violation of section 15."

[75] Madam Justice L'Heureux-Dubé inferred that the Charter could, in some situations, impose upon the government the positive obligation to take concrete measures. On this subject, see the *Vriend* decision (534).

[76] In May 1990, Canada ratified 38 major human rights treaties. See Bayefsky 1992: 23, note 2.

[77] Adopted on December 10, 1948, G.A. Res. 2174 (III) U. N. Doc. A/810, p. 71.

[78] Adopted on December 16, 1966, came into effect in Canada on August 19, 1976, G.A. Res. 220 (XXI), 21 U.N. GAOR, Supp. (No. 16) 52, U.N. Doc. A/6316.

[79] Adopted on December 16, 1966, came into effect in Canada on August 19, 1976, G.A. Res. 220 (XXI), 21 U.N. GAOR, Supp. (No. 16) 49, U.N. Doc. A/6316 (1966).

[80] Adopted on December 18, 1979, came into effect in Canada on January 10, 1982, U.N. Soc. A/RES/34/180 (1979).

[81] (1969) 660 U.N.R.T. 195, came into effect in Canada on November 13, 1970.

[82] The *McDonnell* and *Ringuette* decisions did not allow section 15 to be invoked, but these decisions were rendered before the *Andrews* case and, therefore, are not binding in case law. In the *Lachine General Hospital* decision, the Québec Court of Appeal deemed that section 15 of the Charter could be invoked to demand services in French at a hospital, and in the *French Language Rights* decision, the Court of Appeal of Saskatchewan deemed that section 15 could be used to analyze the scope of linguistic rights in the context of criminal procedures.

[83] As the Commission on Systemic Racism states (Ontario: 40): "Race is a myth because it is impossible to sort humanity into distinct racial groups using any scientific standard." See also the literature cited by Satzewich 1998.

[84] Iacovetta (1986: 197 and 209) notes the attitude of immigration officers toward immigrants from southern Italy, who are described as "not the type we are looking for in Canada" and reports the following comments made by a Toronto resident in the 1950s: "the place around here is literally crawling with these ignorant almost black people..."

[85] *Racial Discrimination Act*, S.O. 1944, chap. 51, repealed by the *Fair Accommodation Practices Act*, S.O. 1954, chap. 28; *Ontario Fair Employment Practices Act*, S.O. 1951, chap. 26.

[86] In 1949, the residents of Dresden decided by a majority vote to uphold the prohibition of serving Black people in restaurants, hairdressing salons and other businesses, despite provisions to the contrary contained in the *Racial Discrimination Act* and later, *The Fair Accommodation Practices Act*. An association for the defence of the rights of Black people (the National Unity Organization) and a union organization (the Joint Labour

Committee for Human Rights) developed a strategy to document racial discrimination in restaurants in order to bring test cases before the courts. In one case, Mr. Bromley Armstrong, a Black man, sat down in a restaurant in Dresden, ordered a coffee, repeated his order three times and after 20 minutes, was still not served. However, two of his colleagues, White people sitting at another table, were served within five minutes. Despite abundant evidence regarding refusal of service, this case was dismissed on the grounds that there may have been reasons other than colour that motivated the refusal of service. In fact, this excuse is often used to this day. Nevertheless, other similar cases were won and the struggle of Black people and other racial, ethnic and religious minorities for their civil rights brought about the adoption of the *Human Rights Code of Ontario* in 1961 (Mosher 1998: 110).

[87] During this study, White and non-White test subjects went to 201 interviews for a job with exactly the same résumé. Of the 36 job offers received by this research team, 27 were offered to the White applicants and only nine were offered to the persons of colour. Thus, White individuals received three times more job offers than Black participants.

[88] Rare are the employers who recognize the existence of these kinds of obstacles within their organizations; those who actually do anything to address this issue are even more rare. Observations from respondents on the subject of minorities show the extensive prevalence of biased attitudes, which undoubtedly lead to discriminatory actions. Through frequent, unsolicited remarks, it became evident that approximately half of employers implicitly presumed that racial minorities were inferior. They either spoke about their fears that White predominance in the labour force would fade away or manifested flagrant signs of racism. (Billingsley and Muszinski 1985: 111-112).

[89] Section 143 of the Code stated: "A male person commits rape when he has sexual intercourse with a female person who is not his wife a) without her consent...." This section was repealed in 1983 and replaced by more egalitarian provisions with regard to sexual assault; see section 265 of the *Criminal Code* and those that follow, notably section 278: "A husband or wife may be charged with an offence under section 271, 272 or 273 in respect of his or her spouse."

[90] Moreover, one Quebec study demonstrated a direct link between physical violence and sexual violence in marriage: 50 percent of the respondents in this study said they had been raped by their husband immediately after being physically assaulted (Jean 1987: 54).

[91] *Jury Verdict and Recommendations, Inquest into the Deaths of Arlene May and Randy Isles,* February 16-July 2, 1998, Coroners Courts, Toronto.

[92] See *Falkiner et al. v. Ontario*, Ontario Court of Justice (General Division), File no. 810/95, wherein the constitutionality of this rule was challenged.

[93] A legal challenge was initiated by a nurse with regard to the discrimination of Employment Insurance against women. See *Globe and Mail,* March 20, 1999.

[94] See the testimony of Pham Thi Quê, "In a Jewel Factory," in CACSW (1993: 134).

[95] Note that this absolute obligation, to which the sponsor is committed, extends beyond that of the usual obligation of support normally contracted in marriage. In the latter case, a spouse is committed to contributing to the essential needs of his wife as far as he can afford. However, under the sponsorship undertaking, he has to repay all amounts received from social welfare, whether he can afford to or not. In addition, the sponsorship undertaking makes him responsible for factors over which he has no control, such as unemployment levels, the dismissal of his wife by a racist foreman, the abolition of his job as a result of the privatization of services, etc.

[96] Interviews with women working with immigrant women.

[97] Interview with a woman lawyer specializing in immigration law.

[98] Note that women are not always sponsored by immigrants; in many cases they are sponsored by Canadian citizens born here.

[99] A concept that existed formally in Quebec law until 1980 and is still current in many French-speaking countries in Africa, for example.

[100] However, the opposite is probably not the case. Did women from the Caribbean who immigrated to Canada in the 1950s and 1960s, and later sponsored their husbands, abuse the power conferred on them by sponsorship? It would be interesting to investigate this dynamic.

[101] This presumption of the incapacity or incompetence of women and other members of the immigrant family is in itself problematic. The levels of education and professional experience attained by the women in their home countries are often higher than those of the average Canadian woman born here, as seen earlier.

[102] For sponsorship of a family member other than a spouse, the Ministry also requires the sponsor's spouse to make a personal commitment regarding the sponsored person.

[103] In particular, through the Canada Assistance Plan, abolished in 1995. The CAP set the federal government's financing conditions for social assistance, notably that social assistance be accessible to residents of other provinces, that the amounts be sufficient to respond to essential needs, that the benefit be universal, that is, that all persons "in need" have access to it, and that no person be forced to work in exchange for welfare. For a discussion of the impacts on women as a result of the abolition of the CAP, see Day and Brodsky (1998).

[104] O. Reg. 436/93, amending R.R.O. 1990, Reg. 366 (Family Benefits); O. Reg. 437/93, amending R.R.O. 1990, Reg. 537 (General Welfare): *Ontario Gazette,* vol. 126-33 (August 14, 1993); GWR, par. 15(2) and 15(3).

[105] This is how it is presented in the *Policy Directives Ontario Works. Making Welfare Work*, dir. 13.0, June 1, 1998. These directives were adopted under the new *1997 Social Assistance Reform Act.*

[106] In 1997, the legislature adopted the *1997 Social Assistance Reform Act* (SARA), which in turn established the *1997 Ontario Works Act,* the new catch-all legislation on social assistance. The SARA also established a special law for persons with a disability who required assistance in dire need, the *Ontario Disability Support Program Act, 1997.* Note that the new *Ontario Works Act* replaces the *Family Benefits Act* (FBA) and *General Welfare Act* (GWA).

[107] This means that persons who entered Canada with a tourist visa but who made a formal application for permanent residence are eligible for social assistance, as stated in the interpretation memo issued by the Ministry of Community and Social Services: "a visitor or temporary resident who applies for landed status or applies as a refugee claimant can be eligible for social assistance" (Policy Directives, Ontario Works, Directive # 13.0-8). Note that the terms of the directive adopted in 1993 appeared more lenient and generous: "people who came to Canada as visitors who have become part of a Canadian family are not denied assistance if they are in need. As a matter of policy, visitors who have demonstrated their intention to remain in Canada have received social assistance in the past" (Social Assistance Programs Branch, Social Assistance and Employment Opportunities Division, memo, December 9, 1993, p. 9). The change in tone may signal greater severity on the part of the authorities.

[108] Exceptions are allowed if the person is in Canada due to circumstances beyond his or her control or if he or she applied for permanent residence on compassionate grounds, under paragraph 114(2) of the Act, par. 6(2) of the Regulation.

[109] Par. 6(1) of the Regulation. However, the *Immigration Act* does not seem to make a distinction between tourists and visitors.

[110] O. Reg. 134/98, section 51. If a woman is living with her sponsor, who is also receiving social assistance, they will receive a benefit amount adjusted to the level for a couple. If another person, for example the sponsor's mother, is living with the respondent, her social assistance benefits will be automatically reduced based on the fixed amount stipulated in the Regulation, section 51(1).

[111] A memo from the Community Resources Office reads as follows: "a sponsored immigrant is subject to an income deduction regardless of whether any income is actually available from the sponsor" (CRO 1996a).

[112] Sections 13 and 51 of the Regulation. Special rules apply to sponsored persons living with their sponsor. In this case, the monthly cheque is reduced by much higher amounts, which presumably reflect housing costs; these amounts are specified in section 51(2) of the Regulation.

[113] Note an interesting decision by the Social Benefits Tribunal on November 26, 1998. In the *Sefer-Jankovic* case, a sponsored woman claimed to have been the victim of spousal violence but had never been physically brutalized by her husband. The social assistance officer had refused to exempt her, and her cheque was reduced by $100 on the basis that she had not suffered from family violence. The tribunal decided that the definition of violence was not restricted to blows and injuries, and that defining family violence as only those situations in which a female claimant is struck or beaten is too restrictive. According to the tribunal, threats and dominant behaviour that arouse reasonable fear of violence also constitute family violence.

[114] Except in the case of women living with a spouse who is also receiving social assistance, or women who have been able to prove they are victims of spousal violence.

[115] Since the depression and the Second World War, Canadians have increasingly come to define personal security in social terms. Personal security has become the knowledge that access to a social safety-net is guaranteed by the community to each of its members, in the event of illness or disability or other source of need (CRO 1996b: 4).

[116] This case was rejected in the first instance but appealed.

[117] However, a recent decision by Justice Edward McNeely of the Ontario Court (General Division) recognizes that a woman whose children were born in Canada (and are therefore Canadian) may not be deported because this would deprive her children of the right to remain in Canada. "Most people would regard it as self-evident that to deport the sole parent of 6 and 8 year old children is to deport or exile the children themselves." The judge stated that forcing the children to leave the country would violate their constitutional rights guaranteed by the Charter. "If government action compels the girls to leave Canada against their will, this deprives them of their liberty to enjoy and exercise their right to stay in Canada...and thus contravenes their...right to life, liberty and security of the person" (Thompson 1998). Note: Since this report was written, the Supreme Court of Canada handed down a decision in the *Baker* case (par. 74) stating that an immigration officer must take into account the best interest of the children in evaluating an application on compassionate grounds. "[A]ttentiveness and sensitivity to the importance of the rights of children, to their best interests, and to the hardship that may be caused to them by a negative decision is essential for an H & C decision to be made in a reasonable manner."

[118] The sponsored candidate receives an immigrant visa only if the application for permanent residence has already been processed and accepted at the time of the withdrawal (Canada 1996: IE 9.14 (3)).

[119] A woman who is a permanent resident may apply for citizenship if she is at least 18 years old. She must have resided in Canada for at least three years during the four years prior to the date of her application. The duration of her residence is calculated as follows:

- one half-day for each day of residence in Canada before she was accepted as a permanent resident; and

- one day for each day of residence in Canada after she was accepted as a permanent resident.

She must have sufficient knowledge of one of Canada's official languages, and of the responsibilities and advantages conferred by citizenship. She must not be subject to a deportation order (*Immigration Act,* s. 5(1)).

[120] As we will see in Part IV of this report, the situation is different in Quebec because the duration of spousal sponsorship has been reduced to three years, which corresponds to the minimum residence period for obtaining citizenship. In Quebec, the assisting relative's obligations under the sponsorship agreement become void at the time Canadian citizenship is obtained.

[121] Paragraph 25 in section 91 of the *British North America Act* stipulates that the federal government has exclusive jurisdiction over "aliens," meaning foreign nationals who have not been naturalized. However, section 95 provides that the provinces can formulate and adopt laws on immigration that are not incompatible with federal laws (Jarry 1991).

[122] Quebec adopted its first immigration law in 1968. Three co-operation agreements then followed until the signature of the *Canada-Quebec Accord on Immigration* and the temporary admission of aliens (*Gagnon-Tremblay/McDougall Accord*), February 5, 1991. This Accord sets out the responsibilities and the respective roles of Canada and Quebec with regard to immigration (ss. 13 to 16 and 21 of the Accord; s. 18 of Appendix A of the Accord).

[123] According to the *Immigration Manual* (Canada 1996: IM-1-2: 10 and 11), immigration officials are not required to inform the sponsored person of their decision to reverse the sponsorship undertaking.

[124] The undertaking agreement is binding on the sponsor from the date that he signs the undertaking form (s. 46.1 of the *Regulation respecting the selection of foreign nationals*).

[125] Essential needs include food, clothing, personal necessities and expenses relating to living in a house or dwelling according to s. 3.1.1, 24 and 26 of the *Regulation respecting the selection of foreign nationals.*

[126] Elsewhere in Canada, the sponsorship undertaking is signed with the federal government. Recently, the federal government recognized that we could not presume that people understand the scope of their obligations pursuant to the signing of an undertaking. Thus, since April 1997, sponsors and sponsored persons must sign a document attesting to the fact that they have understood the scope of the agreement. This sponsorship agreement sets out the obligations of the parties [translation] (Jacoby: 11).

[127] The stipulation for the benefit of another is a legal operation by which a person, called the promisor, commits to another party, called the stipulator, to carry out an obligation to the benefit of a third party. The

> operation is, therefore, a three-party arrangement that makes the third party, who is not a party to the contract, the contractual creditor of the promisor [translation] (Baudoin 1983: 243).

Petrescu v. *Badea* was the only court decision that focussed on the acceptance of the stipulation for the benefit of another by the beneficiary, and it left many questions unanswered according to Isabelle Dongier (1998: 223-224).

> In *Petrescu v. Badea*, the Court accepted the stipulation based on the fact that the sponsored person had come to Canada and moved in with the sponsor. The judgment does not seem to question the real knowledge of the sponsored person in regard of the existence and the scope of the undertaking entered into on her behalf. In many cases, the sponsored woman is not very involved until much later, when she is economically disadvantaged, submits an application for social assistance and is informed of the recourse that must be taken against her sponsor. Can we say that the stipulation for the benefit of another could be suspended until that time and has no real existence? What do we mean by acceptance? Is acceptance implicit based on the fact of immigration or must it, be expressly shown and carried out in full knowledge of the specific benefits of the undertaking? As long as these questions remain unanswered, the qualification of the stipulation for the benefit of another appears debatable even though it has long since entered into jurisprudence [translation].

[128] In case of breach of contract, the wife could demand that the sponsor fulfill his promise.

[129] *Le v. Le* (1994), R.J.Q. 1058. The acceptance of a third party beneficiary is particularly important since it renders the stipulation irrevocable according to article 1446 of the *Civil Code of Quebec*. "The stipulation may be revoked as long as the third person beneficiary has not advised the promisor or the stipulator of his will to accept it."

[130] See the case for the defendant in *Le Procureur général du Québec* v. *Nicolas* and Dongier's article (1998: 222). "[T]his obligation would be the equivalent of a promise to the sponsor that the sponsored person would not ask for any social assistance benefits and would thereby be invalid pursuant to the principle of the effects of contracts" [Translation].

[131] According to the *Immigrant Manual,* sponsored women who are placed in a situation where they cannot fulfill their essential needs, must first contact their sponsor to remedy the situation before considering recourse to government financial assistance (Canada 1996: IM-1-2: 13).

[132] When a sponsored woman succeeds in taking legal action against her husband, the court will first determine her essential needs. It will decide if she has a "reasonable" need for financial support by assessing various factors, such as her age, her family responsibilities, her social situation and any other possible sources of revenue she may have as well as the estimated time required for her to become self-sufficient. See Blackell 1995: 438 and *Family Law-1845*.

[133] "Sponsored immigrants who apply for social assistance are often forced to wait since they have the additional obligation of taking recourse against their sponsor, according to section 30 of the *Act respecting income security*" [Translation] (Blackell 1995: 445).

[134] The sponsorship undertaking eludes the rules of interpretation normally applied to contracts since taking the sponsor's ability to pay into account cancels the obligation that he was contracted to fulfill if he is without any income. A sponsored wife is thus deprived of the possibility of directly demanding that the promisor execute the promised obligation, contrary to the regulation provided in article 1444 of the *Civil Code of Quebec* with regard to the stipulation for another.

[135] Article 585 of the *Civil Code of Quebec* provides: "Spouses, and relatives in the direct line, owe each other support." See Dongier 1998: 226 and 227; *Le Procureur général du Québec v. Nicolas*; *Le v. Le*; *Kabakian v. Kabakian Kechichian*; *Brutus v. Joseph.*

[136] According to Immigration Québec, defaulting sponsors receive a notice via a messenger informing them that the agreement regarding the person they have sponsored has not been respected and asking them to make an appointment with the official in charge of the dossier to come to an agreement on the reimbursement of the monies paid and, if applicable, the reassumption of responsibility for the sponsored person(s).

The sponsored individual will be notified of the steps taken with the sponsor. Indeed, Immigration Québec states that a letter will be sent to the sponsored person a few days before the letter is sent to the sponsor. This letter will also provide a telephone number for those who wish to obtain more detailed information. If the sponsored person foresees any difficulties, this would be the time to inform the ministry. This information will be sent to the officer in charge of the file (Immigration Québec 1996: 3).

[137] Since June 1996, the Government of Quebec has taken serious collection action with defaulting sponsors who were bound to reimburse all the social assistance benefits paid to their spouse for the duration of the sponsorship.

[138] The *Violence Against Women Act (VAWA)* is Part IV of the *Violent Crime and Control Act*, Public Act No. 103-322, signed by President Clinton on September 13, 1994 and effective January 1, 1995.

[139] The status of these women varies according to that of their husband: if the husband is a citizen, they can obtain the status of "immediate relative," whereas if he is a permanent resident, they are given the status of "preference immigrant."

[140] Extenuating circumstances likely to excuse manifestations of bad moral character are limited to extraordinary situations.

> Extenuating circumstances may be taken in account, however if the person has not been convicted in a court of law but admits to the commission of act or acts that could (sic) show a lack of good character under section 1(f) of the Act. The Board of Immigration Appeals (BIA) has ruled that a

> person who admitted to having engaged in prostitution under duress but had no prostitution convictions was not excludable as a prostitute under section 212(a)(12) of the Act (currently section 212(a)(2)(D) of the Act) because she was involuntarily reduced to such a state of mind that she was actually prevented from exercising free will through the use of wrongful, oppressive threats, or unlawful means; Matter of M-, 7 I&N Dec 251 (BIA 1956). [Such] a person...therefore would not be precluded from being found to be a person of good moral character if the person had not been convicted for the commission of the offense or offenses in a court of law (OPINS 1996: 11).

[141] A similar provision can be found for requests to suspend deportation in paragraph 244 of the INA.

[142] The information that follows was taken from a document entitled "Documenting Evidentiary Requirements for Battered Immigrant Applications," without any further reference or date.

[143] Indeed, the INS prefers official documents such as civil protection ordinances or police reports, but agrees to accept affidavits providing there are more than two of these documents (OPINS 1994: 24).

[144] See the analysis from the Canadian Council for Refugees on the subject of the consultations that preceded the writing of the report as well as those that were formulated after it was submitted (CCR 1998: 4).

[145] Recommendation no. 39 from the Not Just Numbers report is that sponsors of family members who have defaulted on alimony or child-support orders should not be authorized to sponsor.

[146] Should a reform set the duration of sponsorship at more than three years, we recommend that the sponsorship undertaking be rescinded at the time Canadian citizenship is obtained so sponsored women who obtain Canadian citizenship are treated without discrimination.

[147] We strongly oppose the government's proposal to adopt measures to prohibit sponsorship when the sponsor fails to meet his obligation to provide for the needs of his family. (See CIC 1999.)

[148] "Any principal applicant can include as dependants in his or her application, the person's spouse and all dependent children.... The principal applicant can elect to include his or her spouse and all dependent children in the application for permanent residence" (Waldman 1992: 13).

[149] "'Accompanying dependant': in relation to all people, designates a dependant person who obtains a visa when a visa is delivered to this person in order to allow the dependant person to accompany or follow this person to Canada" (para. 2(1) of the *Regulation*).

[150] Normally, those who wish to sponsor members of their family must submit to a detailed financial assessment to ensure that they have enough income to respect their sponsorship undertaking. The application is rejected if their gross income for the 12 months preceding the application, minus financial obligations, is less than the low income cut-off for the region where they are living. This rule does not apply to spousal sponsorship (s. 26 of the *Regulation*).

[151] "The family is the natural and fundamental group unit of society and is entitled to protection by society and the State" (*Universal Declaration of Human Rights*, article 16, paragraph 3)."The widest possible protection and assistance should be accorded to the family" (*International Covenant on Economic, Social and Cultural Rights*, Article 10, para.1).

[152] In this regard, we support the new government orientation announced January 6, 1999.

[153] We cannot support the new orientation proposed by the government on January 6, 1999 to the effect that spouses without status and those facing an order of removal cannot submit their applications for permanent residency in Canada. This proposal is particularly disconcerting since it appears that the government intends to abolish any possibility of submitting an application on humanitarian grounds.

[154] We oppose the government proposal announced January 6, 1999 to issue a document of permanent resident status that would be valid for only five years.

[155] Contrary to the recommendations in the *Not Just Numbers* report (ILRAGI 1997), these guidelines should not be enforceable for the reasons we have shown above.

[156] Moreover, the importance of this work was recognized in a document prepared for the National Consultation on Family Class Immigration.

> [T]he admission of 'family' plays an important part in immigration policy by providing a privatized support system which enables immigrants to engage in sustained economic activity. In the context of the 'traditional' husband-led family unit, employers and/or the state benefit from the assignment of the dependent wife of (unremunerated) responsibility for most activities related to social reproduction" (Hathaway 1994: 7).

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* Some of these papers are still in progress and not all titles are finalized.